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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-sixth session

SUMMARY RECORD OF THE 1372nd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 6 March 2000, at 10 a.m.

Temporary Chairman: Mr. GAHAM

Chairman: Mr. SHERIFIS

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The meeting was called to order at 10.10 a.m.

OPENING OF THE SESSION BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL

1. The TEMPORARY CHAIRMAN (Acting Chief, Support Services Branch, Office of the High Commissioner for Human Rights and Representative of the Secretary-General) declared open the fifty-sixth session of the Committee on the Elimination of Racial Discrimination.

Statement by the Acting Chief, Support Services Branch, Office of the High Commissioner for Human Rights

2. The TEMPORARY CHAIRMAN, speaking also on behalf of the High Commissioner for Human Rights, reiterated the support of the Office for the Committee's activities, congratulated the newly elected Committee members at the eighteenth meeting of States parties to the Convention. He welcomed Ms. January-Bardill of South Africa, Mr. François Fall of Guinea, Mr. Raghavan Pillai of India and Mr. Marc Bossuyt of Belgium and paid tribute to Ms. Sadiq Ali, Mr. van Boven, Mr. Ferrero Costa and Mr. Garvalov, whose terms of membership had ended, and Mr. Wolfrum, who had submitted his resignation in September 1999.

3. As was customary, he would brief the members about new developments which had taken place since the Committee's previous session which might be of relevance to its work. The number of States parties which had ratified or acceded to the Convention had remained constant at 155, but the former Yugoslav Republic of Macedonia had recently made the declaration under article 14, bringing to 29 the total number of States parties which had made the declaration. Colombia had become the twenty-fifth State party to ratify the amendment to article 8.

4. The preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to be held in South Africa in 2001, had become a matter of high priority for the High Commissioner for the next 18 months, one of the main activities being the preparation of the first session of the Preparatory Committee, to be held from 1 to 5 May 2000 in Geneva. Two important seminars had been organized in the framework of the preparations, the first in December 1999 on the topic "Human rights, refugees and multiethnic States", and the second from 16 to 18 February 2000 on remedies available to victims of acts of racism, racial discrimination and xenophobia. Four other seminars, of a regional nature, would be organized during 2000 in Africa, Latin America, Asia and no doubt eastern Europe, in cooperation with the regional economic commissions. They would aim to identify the problems specific to each region, in particular to study remedies.

5. The Committee, for its part, was making an important and valued contribution to the preparations for the Conference, both through the work of its members individually and at a general level through its contact group, to which a new member should be appointed to replace Mr. Garvalov.

6. Other treaty bodies had also prepared or would be preparing contributions for the World Conference. The Committee on Economic, Social and Cultural Rights had already submitted a preliminary document at its December session; the Committee on the Rights of the Child had decided at its January 2000 session to follow suit and the Human Rights Committee, currently meeting in New York, would also be discussing arrangements for its contribution. Finally, the Twelfth Meeting of Chairpersons of Treaty Bodies, to be held from 5 to 9 July 2000, would also discuss comprehensive and cooperative action by the treaty bodies in preparation for the World Conference.

7. With the resurgence of ethnic, racial and nationalistic antagonisms manifested in various forms of intolerance, xenophobia and, in the most extreme cases, ethnic conflict, ethnic cleansing and genocide, United Nations human rights mechanisms were compelled to reflect on preventive measures in situations which might degenerate into open conflict. The Committee played an essential role in that regard because of its early warning and urgent procedures mechanism. It was no doubt the body most capable of helping to broaden the process of reflection and transcend antagonisms, in order that the World Conference might provide hope that such insidious forms of racism would disappear in the third millennium.

8. In January 2000, the High Commissioner had launched her first annual appeal for voluntary contributions from the international community to strengthen the Office. A special reference had been made in the appeal to the need to increase the support given by the Office to the treaty monitoring bodies, which had an important role to play in defending human rights.

SOLEMN DECLARATION BY THE NEWLY ELECTED MEMBERS OF THE COMMITTEE UNDER RULE 14 OF THE RULES OF PROCEDURE (item 1 of the provisional agenda)

9. The TEMPORARY CHAIRMAN noted that Mr. Valencia Rodriguez, a re-elected member, and Mr. Marc Bossuyt, a newly elected member were absent.

10. In accordance with rule 14 of the rules of procedure, Mr. DIACONU, Mr. RECHETOV, Mr. YUTZIS and Ms. ZOU, re-elected members of the Committee, and Mr. FALL, Ms. JANUARY-BARDILL and Mr. PILLAI, newly elected members of the Committee, made the following solemn declaration:

> "I solemnly declare that I will perform my duties and exercise my powers as a member of the Committee on the Elimination of Racial Discrimination honourably, faithfully, impartially and conscientiously."

APPROVAL BY THE COMMITTEE OF THE EXPERT APPOINTED BY A STATE PARTY TO FILL A CASUAL VACANCY (item 2 of the provisional agenda)

11. The TEMPORARY CHAIRMAN said that, Mr. Wolfrum having resigned from the Committee, Mr. Brun-Otto Bryde had been appointed by Germany to succeed him. In accordance with rule 13 of the Committee's rules of procedure he submitted the name of Mr. Brun-Otto Bryde to the Committee for approval by secret ballot.

12. Mr. ABOUL-NASR proposed that, given the evident unanimity surrounding Mr. Brun-Otto Bryde's appointment, if no member formally objected, the Committee might dispense with a vote.

13. The TEMPORARY CHAIRMAN said that, if he heard no objection, he would take it that the appointment of Mr. Brun-Otto Bryde was approved by consensus.

14. It was so decided.

15. Mr. Brun-Otto Bryde took a place among the members of the Committee and made the solemn declaration under rule 14 of the rules of procedure.

ELECTION OF OFFICERS (item 3 of the provisional agenda)

Election of Chairman

16. The TEMPORARY CHAIRMAN invited the members of the Committee to nominate candidates for Chairman.

17. Mr. ABOUL-NASR nominated Mr. Sherifis, who, in addition to his lengthy experience as a member of the Committee, had also had a brilliant diplomatic career and possessed all the qualities required for the office.

18. Mr. Sherifis was elected Chairman by acclamation.

19. Mr. Sherifis took the Chair.

20. Mr. SHAHI proposed that the Committee should send each of its outgoing members a letter thanking them for their contribution to its work.

21. The CHAIRMAN endorsed Mr. Shahi's proposal and said that he would send a letter of thanks, on behalf of the Committee, to Ms. Sadiq Ali, Mr. van Boven, Mr. Ferrero Costa, Mr. Garvalov and Mr. Wolfrum. He thanked Mr. Gaham for his statement and said that he looked forward to frequent appearances by a representative of the High Commissioner for Human Rights at the Committee's meetings. He would also appreciate the High Commissioner attending a meeting at the current session to inform the Committee of her Office's activities and projects and to take part in an exchange of views. The Committee's contribution to the preparations for the World Conference, the importance of which had been stressed by Mr. Gaham, was one of the Committee's priorities. In that connection, he asked Mr. Aboul-Nasr to consult the Committee members informally and to submit to him proposals concerning the composition of the working group on preparations for the World Conference and the nomination of a replacement for Mr. Garvalov, who had chaired the working group. The proposals would then be adopted by the meeting.

22. Mr. RECHETOV, supported by Mr. de GOUTTES, suggested that the Committee should not confine itself to sending letters of thanks to its outgoing members, but should call on them in the future whenever it needed the help of outside experts in specific cases, should the budget so permit.

23. The CHAIRMAN said he took it that the members of the Committee approved Mr. Rechetov's and Mr. de Gouttes' proposal.

24. It was so decided.

Election of Vice-Chairmen

25. The CHAIRMAN invited the members of the Committee to nominate candidates for the three posts of Vice-Chairman of the Committee.

26. Mr. DIACONU nominated Mr. Rechetov.

27. Mr. YUTZIS nominated Mr. Valencia Rodriguez.

28. Mr. ABOUL-NASR nominated Mr. Fall.

29. Mr. Fall, Mr. Rechetov and Mr. Valencia Rodriguez were elected Vice-Chairmen by acclamation.

Election of Rapporteur

30. Mr. ABOUL-NASR, supported by Mr. SHAHI, nominated Mr. Banton for the post of Rapporteur of the Committee.

31. Mr. Banton was elected Rapporteur by acclamation.

The meeting was suspended at 11.40 a.m. and resumed at 12.15 p.m.

ADOPTION OF THE AGENDA (item 4 of the provisional agenda) (CERD/C/385)

32. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5)

General debate

33. Mr. GAHAM (Office of the High Commissioner for Human Rights) said that the Office intended to make every effort to follow up and support the work of the Committee and that it would keep the Committee informed of the status of preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. It also intended to involve the Committee closely in the celebration of the International Day for the Eliminiation of Racial Discrimination, 21 March 2000.

34. The CHAIRMAN urged the Office of the High Commissioner to treat the Committee on at least an equal footing with the other treaty bodies. He noted the fact that the Committee pre-dated the other bodies and the special importance of its role, especially in view of the preparations for the World Conference against Racism.

35. Mr. ABOUL-NASR inquired about the situation regarding the General Assembly's consideration of the Committee's request to hold one session each year at United Nations Headquarters in New York.

36. Mr. GAHAM (Office of the High Commissioner for Human Rights) said that the General Assembly was still studying the Committee's request. It was his understanding that the Assembly had decided to refer the matter to the appropriate bodies, which would submit recommendations to it in the light of the 2001 calendar of meetings for the period requested for the Committee's session and the financial implications involved. He was not certain that the General Assembly would respond favourably to the request, in view of the extra expenses it would entail.

37. The CHAIRMAN emphasized the importance of the matter raised by Mr. Aboul-Nasr and said that he would appreciate the Office of the High Commissioner rapidly providing the Committee with information for use in the discussions it would be holding on the matter during the second half of the current session.

38. Mr. YUTZIS said that Mr. José Gomez del Prado, former Secretary of the Committee, had been nominated as coordinator for the work of the World Conference. In that connection, he would appreciate the Office of the High Commissioner asking Mr. Gomez del Prado to ascertain the Committee's views and positions in order to take them into account for the World Conference.

39. Mr. GAHAM (Office of the High Commissioner for Human Rights) said that the Committee's request would be duly conveyed to Mr. Gomez del Prado, through the Support Services Branch of the Office of the High Commissioner.

Consideration of the draft programme of work of the Committee (CERD/C/56/Misc.4) (document distributed in the meeting room in English only)

40. The CHAIRMAN invited the members of the Committee to consider the draft programme of work of the Committee (CERD/C/56/Misc.4). Nepal had requested that consideration of its periodic report should be postponed to the following session of the Committee owing to difficulties of a practical nature. Similarly, Bangladesh and Viet Nam, which were to be the subject, at the current session, of the review of implementation of the Convention in States parties whose periodic reports were seriously overdue, had asked that the consideration of their countries' situation should be postponed to the fifty-seventh session so that

it could be based on a periodic report. The report of Bangladesh had recently been received by the Office of the High Commissioner, and Viet Nam had promised to submit its report in time for the following session.

41. Mr. YUTZIS stressed the need to consider the periodic reports of Nepal and Bangladesh as soon as possible, owing to the serious situation in those countries with regard to the implementation of the Convention.

42. The CHAIRMAN said he took it that the members of the Committee agreed to consider the periodic reports of Bangladesh, Nepal and Viet Nam at the following session.

43. It was so decided.

44. The CHAIRMAN said that the report of Slovenia had been received by the Committee secretariat that very day and that its consideration should accordingly be postponed to the Committee's following session if possible. If he heard no objection, he would take it that the Committee agreed.

45. It was so decided.

46. Mr. ABOUL-NASR, supported by the CHAIRMAN and Mr. YUTZIS, proposed that the Committee should hold a meeting to discuss issues not on the agenda relating to serious situations requiring it to take action.

47. The CHAIRMAN suggested that the general debate in question should be held on 10 March, in lieu of consideration of the report of Nepal, which had been postponed.

48. Mr. de GOUTTES proposed that the debate should be held under agenda item 6: Prevention of racial discrimination, including early warning measures and urgent action procedures. The Committee had introduced its preventive measures precisely for the purpose of dealing with crisis situations or situations of concern.

49. Mr. ABOUL-NASR said that it would be useful for the Committee to receive press releases or statements issued by the Office of the High Commissioner for Human Rights since the Committee's previous session. The documents would provide a basis for the Committee to use in analysing the various crisis situations and deciding whether or not to take action. He had no objection to the debate taking place under agenda item 6.

50. Mr. RECHETOV endorsed Mr. Aboul-Nasr's proposal; however, the Committee should not limit itself to the latest statements or press releases, but should receive all the documents issued in the previous 18 months.

51. Ms. RAADI (Team Leader, International Conventions Team, Support Services Branch, Office of the United Nations High Commissioner for Human Rights) said that her office would provide the Committee with all statements issued by the Office of the High Commissioner for Human Rights.

52. The CHAIRMAN suggested that crisis situations should be considered in the framework of agenda item 6 on preventive measures, on Friday, 10 March 2000.

53. It was so decided.

The meeting rose at 1.05 p.m.

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Fifty-sixth session

SUMMARY RECORD OF THE 1373rd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 6 March 2000, at 3 p.m.

Chairman: Mr. SHERIFIS

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CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Twelfth to fourteenth periodic reports of France

ORGANIZATIONAL AND OTHER MATTERS (continued)

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7)

Twelfth to fourteenth periodic reports of France (CERD/C/337/Add.5; HRI/CORE/1/Add.17/Rev.1)

1. At the invitation of the Chairman, Mr. de Baynast, Mr. Saint-Paul, Ms. d' Urso, Mr. Capin Dulhoste, Ms. Rocchy, Ms. Benedetti, Mr. Lercher, Ms. Doublet, Ms. Compagnie, Mr. Wilkinson, Mr. Lefeuvre, Mr. Rouzaud and Mr. Cellard (France) took places at the Committee table.

2. Mr. de BAYNAST (France) said that his Government's oral presentation had taken on special significance in view of the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.. Since the previous periodic report, which went back to 1993, the framework and thrust of the fight against all forms of racial discrimination had seen considerable change.

3. One of the most striking recent developments had been the Europeanization of the fight against racial discrimination, a policy which had been included in the Treaty of Amsterdam (art.13). The European Union had shown that it intended to give priority to combating racial discrimination, and had proposed a draft programme of action to that effect and two draft directives, one on implementing the principle of equal treatment without distinction as to race or ethnic origin and another on creating a general framework to promote equal opportunity in employment. Those texts were designed to encompass all forms of discrimination and facilitate victims' access to their rights. The two draft directives introduced the concept of indirect discrimination and gave special attention to harassment. The burden of proof for persons alleging racial discrimination had also been eased. The importance attached to the principle of non-discrimination could also be seen in the draft charter of fundamental rights currently being drawn up. The European Council had recently decided to create a European judicial body, called "Eurojust", to ensure judicial cooperation on a par with that already existing between the European Union's national police forces. France might propose that it be given powers to fight racism and xenophobia with a view to coordinating penal policy in Europe. His Government intended to work towards completion of the above drafts during its forthcoming presidency of the European Council. A proposed amendment to the European Convention on Human Rights would introduce an article prohibiting all forms of discrimination, thereby greatly broadening enforcement of that right in the Council of Europe's member States.

4. Turning to French policy, he said that, although non-discrimination was enshrined in article 1 of the Constitution, his Government was keenly aware of the need to ensure that there was an effective system to put that policy into practice. Although the basic principles underlying anti-discrimination legislation were the indivisibility of the Republic and equality of rights, France had focused its efforts in recent years on more closely coordinating its action with forces active in the fight against racial discrimination and exclusion and giving more individualized attention to the population groups concerned, and it had developed a number of tools to assess both the phenomenon itself and the impact of its policies.

5. One aspect of that effort involved training. The policy of the Ministry of Employment and Solidarity gave priority to combating discrimination in employment and at the workplace, drawing on inputs from the National Consultative Commission on Human Rights (CNCDH). His Government had proposed five guidelines for combating discrimination which had been endorsed by labour and management and which placed emphasis on the training of civil servants, trade union members and employees. Such courses were planned for officials of the French job placement service (ANPE) and the adult training agency (AFPA), the local services of the Ministry of Employment and Solidarity and the national network of youth centres. Persons who worked in reception centres and provided information to the public would be instructed in how to prevent and deal with racial discrimination and, more generally, prepared for an understanding of cultural differences.

6. Specifically, ANPE officials would receive initial and in-service training in how to respond to discriminatory behaviour, pursuant to the agreement on combating racial discrimination signed in 1999 between the French Government, the ANPE and the Social Action Fund. The AFPA's 1999/2000 programme provided for the training, in each of its 280 offices, of one person to act as mediator in situations involving racial segregation. As to the network of local services, staff training units had been set up in 1999 which gave priority to programmes that helped young people in difficulty to find work. The national institute of labour, employment and vocational training would be conducting an awareness campaign in 2000. Future labour inspectors would take a week-long course on issues of racial discrimination as part of their initial training. As in-service training, a seminar was to be held on 8 and 9 March for civil servants working in the employment services the aim being to devise strategies to combat discrimination and draw up a monitoring procedure for labour inspectors.

7. The Government was planning to support initiatives by labour unions to ensure that elected officials of workers' councils and judges on industrial tribunals were more alive to issues of racial discrimination and the need for understanding cultural differences.

8. Training for employees, aimed at raising awareness about the diversity of both staff and public and countering all forms of discrimination in hiring and in labour relations, was intended principally for those responsible for recruitment and career management, and also for staff members detached to give guidance to recently hired colleagues. Pilot projects of that kind had already been carried out in cooperation with the association "Agir contre l'exclusion", with State support. Action to prevent and combat racial discrimination was included in contracts on training objectives concluded between the central Government, the regions and the various occupational sectors.

9. The issue of racial discrimination was included in the initial and in-service training of judges, court officials, officials in charge of the legal protection of minors and prison staff. Today, every court of appeal had an expert on human rights attached to it. Family and juvenile judges took special courses on foreign cultures so as to be in a better position to understand the context in which they were required to take action. Anti-discrimination issues were likewise included in a draft Code of Conduct for prison administrations currently under discussion.

10. A 1998 Ministry of Justice circular, while observing that anti-discrimination legislation was very comprehensive, had asked judges to intensify their efforts to combat racism and work

more closely with the police and associations devoted to combating racism and tailor penal policy to local circumstances. The circular stressed the need to improve the judicial response to new forms of discrimination that had come to light in economic, industrial or commercial spheres of activity and make better use of existing machinery. The impact of the circular was deemed to be positive. Government procurators had been increasingly vigilant in identifying and prosecuting offences based on racism and xenophobia, including press offences and acts of violence against persons or property, and had given instructions to the police to forward any such complaints without delay.

11. At another level, mediation had made it possible to reduce neighbourhood tension on many occasions, and local initiatives in which persons were informed of their rights had yielded positive results, facilitating the social integration of potentially excluded segments of the population. Some public prosecutors had organized workshops with owners of bars and discotheques and with school directors in order to heighten awareness of the need to comply with legislation prohibiting all forms of discrimination. The prosecutor's office of Tours had instituted proceedings against the owners and a doorman of a discotheque for discrimination against persons of North African origin. The persons concerned had been sentenced on 29 April 1999 to the payment of fines ranging from 3,000 to 12,000 francs and compensation to each of the five victims. The case was being appealed. His Government had always been very alive to the question of discrimination against young people. In that connection, he underscored the role of the association SOS Racisme, which had initially brought the Tours case to the attention of the judicial authorities.

12. The Government's policies had begun to bear fruit, because the number of convictions on charges of racial discrimination had risen by 20 per cent, from 97 in 1997 to 115 in 1998. Punishment had also been made more severe: to cite one example, convictions for the offence of uttering racial insults was now punishable by one-and-a-half month's imprisonment and a fine of 7,000 francs, as against one month's imprisonment and a fine of 3,500 francs in 1997.

13. In early 1999 his Government had set up in each department a departmental commission for access to citizenship (CODAC) to help young persons born of immigrant parents to find employment and their place in society and to fight discrimination against them in hiring, housing and leisure activities. The commissions were composed of representatives of the national government, the courts, teachers, labour and management, associations and local elected officials. They served as a forum for exchanging information and discussing discriminatory practices and ways of addressing them. Sometimes they referred cases to the judicial authorities, but also offered mediation and tried to resolve difficulties by consensus. In 1999, 260 cases had been reported to the commissions in 30 departments; some cases had been referred to the prosecuting authorities and 40 had been resolved out of court. Thanks to their efforts, discotheque owners in several departments had committed themselves in writing to refusing all forms of discriminatory admittance practices.

14. A forthcoming conference to be held in Paris on the subject of citizenship and the fight against discrimination would discuss the following topics: combating discrimination in everyday life, access to employment, exercise of citizenship and access to rights and justice. All Ministers

would be involved in preparations for a symposium to be organized in Paris in July 2000 by the National Consultative Commission on Human Rights on the subject of good practices in combating racism; persons active at European Union level would also attend.

15. One major difficulty in combating discrimination was that, owing to their status and ignorance of their rights, the victims themselves were reluctant to report cases of discriminatory practices at work or in their dealings with the administration. With the Act of 10 July 1991, a better instrument had been created for providing legal aid and counselling to persons who could not afford such services. The scope of the departmental Councils of Legal Aid responsible for evaluating needs for access to the law and developing and implementing a relevant aid policy had recently been broadened. They were now known as departmental councils for access to the law and had been assigned the functions of a referral body. Any request for legal action must be communicated to them, even when State financial aid was sought. They were also required to liaise on a permanent basis with the departmental committee responsible for coordinating policies for preventing and combating exclusion, likewise established in 1998. The open-ended councils were composed of representatives of the State, judicial, departmental and district authorities, and of an association active in the field of access to the law, and were chaired by the president of a local court of major jurisdiction. There were also plans to increase the number of legal advice centres to reach out to the victims of discrimination and provide them with information and assistance as necessary.

16. A further area on which the French Government was focusing attention was action to prevent exclusion. The basic constitutional principle of equality before the law for all citizens without any distinction of origin, race or religion had been reactivated by the Act of 29 July 1998 on action to prevent exclusion, which guaranteed effective access to what were deemed basic rights: employment, housing, health protection, the law, education, training and culture, and the protection of the family and children. The other innovative aspect of the Act was the provision it made for coordinating the action of all those involved in preventing and combating exclusion and reporting on the results. It laid down the conditions for allocating subsidized housing and provided for measures to ensure that disadvantaged tenants were able to remain in their rented accommodation and were availed of information and assistance with regard to their rights and, where appropriate, financial aid.

17. The Government was also focusing efforts on the establishment of evaluation tools. France was often reproached for prohibiting data collection on the basis of racial origin and in particular for the absence of tools to assess the effectiveness of French policy to combat racial discrimination. He therefore considered it important to clarify his Government's position on the matter. As could be seen from article 226-19 of the Penal Code, there was no legal provision prohibiting the collection of such data with the consent of the person in question. Such consent was indeed desirable since that person alone was in a position to identify his or her race. Progress was in fact being made in that area, with, for instance, the establishment of the study group on discrimination. The group, set up in May 1999, was to play the role of a monitoring body, carrying out studies and awareness-raising activities. The agreement setting up the group had been signed by the nine ministries, an association representing immigrant workers and their families, a public body (SONACOTRA) and a research group. The group would focus on topics

such as jobs inaccessible to foreigners, procedures for allocating housing, schools with pupils from different ethnic groups, the relationship with the law, awareness-raising and training of civil servants and the access of young immigrants to training contracts.

18. The mandate of the National Consultative Commission on Human Rights (CNCDH) was set out in Act No. 90-165 of 13 July 1990 providing for the punishment of all racist, anti-Semitic or xenophobic acts. Under the Act the Commission was required to submit an annual report to the Prime Minister on action to combat racism and xenophobia. To date, nine reports had been submitted, which were available for consultation by the Committee members. The first part of the most recent report assessed racism and xenophobia on the basis of precise statistical data, a survey on the general public's perception of racism and a study on the specific topic of the employment sector. The Commission thus provided the Government with valuable information on trends in the area of racial discrimination and its multidisciplinary nature ensured the reliability of the information in question. The Commission was also required to advise the Government on international matters. It was worth noting that the previous week, in the light of events in Austria, the Minister of Justice had felt it necessary to consult the Chairman of the National Consultative Commission on Human Rights with regard to suitable action to monitor the resurgence of racist ideologies within the European Union.

19. His delegation hoped to be able to provide all the answers and information required for the Committee's consideration of the fourteenth periodic report. It was not its intention to claim that there was no room for improvement. Inexcusable acts and regrettable or unacceptable situations still existed. In some cases they led to the conviction of the person responsible or even the condemnation of the French Government by the European Court of Human Rights. He trusted that progress had been made in understanding the problems and finding suitable responses. The Committee's very attentive and critical eye was of invaluable assistance to the French Government. France considered that it had a responsibility to combat discrimination since historically it was a country that was a crossroads of different cultures. The Government saw Europe not as a fortress of security but as the way ahead in combating discrimination, particularly against the most vulnerable groups, namely certain foreigners, offering them freedom and justice.

20. The CHAIRMAN thanked the French delegation for its very comprehensive introduction, the text of which might be made available to Committee members for information.

21. Mr. BANTON (Country Rapporteur) drew attention to his written queries and comments on France's twelfth to fourteenth periodic reports contained in document CERD/C/56/Misc.10 (available in English only). Turning to article 1 of the Convention, he noted that, despite assertions by successive heads of the French delegation about the comprehensive nature of French legislation on racial discrimination, the Committee, when considering France's ninth to eleventh periodic reports at an earlier session, had found nothing that prohibited distinctions which were discriminatory in effect. Its recommendation in 1994 that France should strengthen its laws to prohibit actions that had such an effect did not appear to have been given due consideration in the fourteenth periodic report.

22. On the subject of visa regulations, he inquired whether the restrictions imposed by France on the availability of visas satisfied the criteria of serving a legitimate aim, having a legal basis

in the law and embodying a reasonable relationship of proportionality between the means employed and the aim sought. France also imposed certain obligations on airlines and other transnational carriers. What steps were being taken to ensure that the rights of would-be entrants were sufficiently protected? With regard to applications for asylum, what measures guaranteed that applications by Roma people received individual attention?

23. It appeared that, although in France there were many NGOs active in the field of racial discrimination in connection with immigration, there was less activity in relation to the rights enshrined in article 5 of the Convention. According to a memorandum he had received from the Association of Christians for the Abolition of Torture (ACAT), the percentage of asylum-seekers interviewed between 1994 and 1999 by those responsible for reviewing applications had fallen significantly. ACAT drew attention to the recommendations of the National Consultative Commission on Human Rights that article 16 of the 1986 immigration act should be repealed and individual reasons be given for refusal of visas. It called for a distinction to be drawn between those who assisted immigrants for humanitarian reasons and others involved in unlawful activities. The memorandum discussed the deportation of immigrants who had committed offences and raised important issues about the possibilities of appealing against deportation orders. It provided grounds for concluding that in the department of French Guyana, the repressive elements of French legislation were applied whereas the protective ones were often ignored. He suggested that the French delegation should submit replies in writing, as part of France's fifteenth periodic report due in August 2000.

24. His impression of inequity between immigration and article 5 issues was reinforced by information contained in a report by the Ligue française des droits de l'homme which stated that, of the 1,339 applications for territorial asylum submitted in 1998, mostly from Algerians, only 8 applications had been granted. Was that a sufficient statement of the action France had been taking in respect of territorial asylum cases? Paragraph 6 of France's fourteenth report (CERD/C/337/Add.5) made no reference whatsoever to territorial asylum, yet when there were two different procedures for asylum, constitutional and territorial, it gave rise to discrimination in effect.

25. With reference to article 3 of the Convention, he asked whether it could be considered unlawful for a parent to request the transfer of a child to another school because of predominance of a certain ethnic group in the class. Similarly, if an education authority were to accede to such a request would that also be considered unlawful? If there was a disproportionate representation of children of foreign origin in one school, constituting ethnic segregation, could an anti-racist association initiate legal proceedings?

26. With respect to article 5 (a), he asked whether the Committee's request in 1994 for further information on judicial decisions relating to racial discrimination including payment of compensation had been overlooked by the French Government in its preparation of the fourteenth periodic report.

27. In connection with article 5 (b), the statement in his own comments (CERD/C/56/Misc.10) to the effect that persons detained in French police stations were routinely beaten was unjustified. However, having consulted the relevant report of the Council of Europe's Committee against Torture, he considered that there were still grounds for concern

about police malpractice and wondered, given the absence of information in the fourteenth periodic report, whether the French Government shared such concerns. According to ACAT, the 1998 Code of Conduct for Police Officers had not been adequately distributed and police officers interviewed were not familiar with it. The reference to non-discrimination in the Code of Conduct was very brief and not supported by references to the law or international norms. Like ACAT, he was sceptical about its usefulness and given his experience of police training and discipline in other countries, concluded that France had not yet fulfilled its obligations under article 5 (b). A further aspect which should be taken into consideration that had also been overlooked in the fourteenth periodic report was the protection required by women and children against threats from strangers and members of their own social groups, such as male relatives who insisted they should conform to the customs of their homeland countries.

28. With regard to article 5 (e), had the Committee's recommendations to ensure that there was no discrimination in the employment sector been followed up? He drew attention to the virtual absence of convictions for violating the right to work without discrimination. The guide to anti-racist legislation provided in an annex to the fourteenth periodic report mentioned the possibility of referring alleged violations to industrial tribunals, yet there was no reference to such matters in the report proper. What exactly was the role of those industrial tribunals and were they put to sufficient use?

29. Although sexual discrimination did not fall within the purview of the Committee, measures for counteracting both forms of discrimination could usefully be combined. In cases of sexual discrimination, the European Council recommended that the burden of proof should be placed on the person against whom the discriminatory act was alleged once the complainant had produced sufficient evidence of a breach of the principle of equal treatment; the International Labour Organization was also moving in that direction. Did the French Labour Code provide such protection in cases of alleged sexual discrimination and, if so, could the same procedures be applied in cases of racial discrimination?

30. A recent article on racial discrimination in Le Monde Diplomatique referred to young men who had been unable to get job interviews until they changed their Arabic-sounding names to a more French-sounding surname. The head of the French delegation had implied that the French Government was very vigilant about matters of discrimination in access to employment, but it emerged from that article that such vigilance was futile owing to the requirements for proof of such discrimination under existing legislation. The article was in fact somewhat misleading when it spoke of convictions under the British system. In the United Kingdom many of the cases of alleged discrimination at work were settled out of court, even those that reached the industrial tribunals. There were no penal convictions made for racial discrimination at work in the United Kingdom since such matters were dealt with under civil proceedings. Cases were taken to court not by the Commission for Racial Equality, but by the victims themselves, with or without financial assistance from that Commission or trade unions. The French Government might have something to learn from such procedures. The article in question expected that a solution to the problem of discrimination at work might be found in European law, which tied in with the remarks by the head of the French delegation in his introductory statement. He suggested that the French Government should delay no longer and review its own legislation rather than waiting for a solution at European level.

31. With reference to article 5 (e) (iii), in 1994 the Committee had recommended the introduction of legislation to provide effective protection against racial discrimination with regard to housing. The CNCDH reported that despite the daily cases of such discrimination in France only one conviction had thus far been made. Moreover the current practice by housing authorities of allocating an apartment vacated by one immigrant to another, while continuing to restrict access to new ones vacated by French nationals on the basis of quotas, was discriminatory in effect. The fourteenth periodic report contained no information on that vitally important subject.

32. He was disappointed at the information provided in the report on the right to public health (art. 5 (e) (iv)). More information on the practical difficulties involved was necessary.

33. With regard to the right to education (art. 5 (e) (v)), given that schooling was compulsory until the age of 16, what estimate could be provided of the proportion of Roma children attending school up to that age? In the sphere of cultural activities (art. 5 (e) (vi)), particularly sport, there was reportedly no effective judicial remedy for racial discrimination, yet discrepancies existed between the law and practice. Since sport played a very important role in society and was a breeding ground for racial discrimination, did the French Government intend to take any steps to address the problem? The racial diversity of the French cup-winning football team had been an occasion for satisfaction, yet in other professions in the public eye, such as the media, the situation was very different. Although the French Government could not be held responsible for such matters, it should be concerned.

34. While he welcomed the positive developments with respect to the right to service (art. 5 (f)), described in detail in the introductory statement, he asked whether there were any grounds for revoking the operating licence of persons allegedly practising racial discrimination. As far as article 5 was concerned in general, would the French Government consider supplementing the criminal law with remedies that relied upon civil procedures under the Labour Code and upon administrative law? Concerning the comments made by the head of the delegation in the introductory statement about the registration of data concerning a person's racial or ethnic origin he would draw attention to the Committee's General Recommendation No. VIII, according to which identification should be based on self-identification by the individual concerned. The principles of European law he had referred to were based on cases relating to sexual discrimination, but before long would be extended to racial discrimination. The French Government would therefore need to stand ready to bring its legislative practice into line with the requirements of the European Union.

35. With respect to articles 2, 6 and 7, the State had the obligation to ensure that effective measures were taken. Was there any reason to believe that the remedies described in the report were effective? If educational policy was so enlightened, then why did so many young people express racial prejudice and engage in racial harassment? Judging from two high school (lycée) textbooks supplied by the Ligue française des droits de l'homme, it would appear that short shrift was given to the place of Islam. If that was the case in the lycées, how much was taught to students at other institutions?

36. The CHAIRMAN, speaking in his capacity as a member of the Committee, pointed out that France had many years before made the declaration under article 14, yet the Committee had

never received a single communication from an individual or group of individuals. Could the delegation explain why? Was the availability of such recourse known to the intended beneficiaries? France was to be commended for being the first country to have ratified the amendments to article 8, paragaph 6, of the Convention.

37. Mr. DIACONU said that the Committee expected much from France, which had a long tradition in the vanguard of democracy and human rights. In the past half century it had also attracted a large number of immigrants and had become a multi-ethnic and multiracial society. The Government had undertaken comprehensive measures against social exclusion and to promote integration and basic rights, had encouraged the work of associations and civil society and had established the National Consultative Commission on Human Rights which worked hand in hand with the numerous associations, as well as departmental Councils of Legal Aid. It was indeed remarkable that under French law, any association which had been duly declared for at least five years and whose objectives, as set forth in its statutes, included combating racism was able to bring proceedings on behalf of the victims of racist or discriminatory acts. France was one of the few countries which had established criminal liability of corporate entities and the sanctions which applied to them.

38. The report provided data on the nationalities of foreigners residing legally in France, but no information on the national and ethnic composition of French citizens and the number and breakdown of illegal aliens. As the report, and indeed French law and the Court of Cassation, referred to "ethnic groups" in France, it would be useful to know which ethnic groups existed. There was a reference to the Roma, and the Country Rapporteur had said that the number of Roma in France was estimated at somewhere between 280,000 and 340,000. Since the Committee was considering the possibility of holding a special debate on the situation of the Roma, information on the size of the Roma population, the extent to which it was nomadic and its economic and social situation would be of interest.

39. The report referred to apartheid but failed to address racial segregation, which was also covered by article 3. Did such segregation exist in France, and what action could the Government and national associations take to counter it? France had a very thorough and detailed body of legislation which fulfilled all the requirements of article 4. Why, then, did the Government maintain the reservation which France had made when it had ratified the Convention? It appeared that the provisions against publicly defending or disputing the existence of crimes against humanity and against revisionism and negationism applied only to those crimes committed in the Second World War. Yet such crimes had been committed since. Why were those provisions not applicable in the case of Bosnia and Herzegovina, Rwanda, or elsewhere? The report mentioned efforts undertaken to teach native languages to foreign children in French public schools, but also stated that certain errors had been made, without specifying which. What sort of problems had arisen, and how would the Government deal with them? Lastly, there had apparently been some progress in the teaching of the regional languages native to France and the overseas departments and territories. Was there any specific information on the use of such languages? Had any studies been undertaken on that subject?

40. Mr. NOBEL, pointing out the important role France played in the elimination of racial discrimination and the obligation placed upon it under article 9 of the Convention, expressed disappointment at the late submission of the twelfth to fourteenth reports, and hoped that the

French Government would set an example to other States by submitting future reports on time. With regard to immigration, there was a very serious danger that the so-called "Shengen spirit" might lead to a divisive mentality, according to which European immigrants were desirable and others from non-member States were not. The notion itself appeared to contain the seeds of racism, and it was necessary in implementing immigration policy to take the utmost care to eradicate any racist elements that might emerge.

41. According to the information submitted by ACAT, asylum-seekers in France enjoyed few legal guarantees against expulsion. Asylum policy was in part subsumed under immigration policy, which was highly unfavorable to applicants. Moreover, the authorities showed a lack of interest in the living conditions of asylum-seekers. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), processing was seriously underfunded at every stage. Physical conditions at entry points were poor, fewer than 40 per cent of asylum-seekers had interviews with the Office for the Protection of Refugees and Stateless Persons (OFPRA) before a position was taken in their cases, and in 1999 only 3,600 beds had been available to accommodate some 30,000 asylum-seekers. Although in 1998 the Government had adopted new regulations which gave refugee status to persons persecuted for their pursuit of freedom, fewer than 20 cases had been processed since.

42. Having learned that the authorities applied sanctions to airlines and other carriers which transported undocumented aliens to France, he asked how a Government could justify delegating to private companies its State responsibilities under the 1951 Convention relating to the Status of Refugees. An NGO had reported that there were as many as 62,000 persons who had no legal status but whose presence was tolerated (clandestins officiels), at least as long as they did not assert their rights or cause any problems. Could the delegation comment on their number and situation?

43. While the measures taken recently to ease formalities for foreign families in France were commendable, most of those provisions were long-standing requirements under article 8 of the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms. The report also stated that asylum-seekers from countries to which the Geneva Convention's cessation clause applied would no longer be granted temporary residence permits and other advantages. Did that cover persons who had already spent years in France with their families? Specifically, what time limits applied?

44. Mr. FALL noted that since 1996 France had implemented a clear policy aimed at combating racism. France was an ethnically diverse society because of the country's historical role as a place of immigration. Some subjects of concern remained, and it was good that the Government recognized them. The numerous associations which worked to combat racism were to be commended for their action, which had done much to reduce the phenomenon in France.

45. There remained persistent discrimination against immigrants with regard to housing. During identity checks, police brutality was reportedly used widely against persons because of their physical appearance or race, and the French immigration authorities regularly turned back certain persons arriving at French airports, particularly Africans, even though they held valid visas issued by French consulates. For them, obtaining a visa could be a long and tortuous process, and refusal of entry at French airports on grounds, for instance, of a lack of knowledge

of the French language was unjust. Perhaps the French authorities should issue instructions to the police and immigration authorities to rectify that situation. He also mentioned the excessively lengthy waiting periods for asylum-seekers and the disturbing situation of undocumented aliens.

46. Mr. BRYDE commended the French Government for presenting a report which openly addressed issues related to immigration. In Europe, immigration policy was often used as a pretext for racially discriminatory practices, and that was even more of a problem when jus sanguinis applied. France was therefore to be commended for restoring jus soli in the republican tradition. While France had a near-perfect body of legislation with which to combat racial discrimination, in reality discrimination against immigrants and immigrant communities persisted in housing, employment and education. That discrepancy raised questions about the effectiveness of the law, particularly penal law. Did the Government have any means of evaluating progress in fighting xenophobia and racial discrimination in the light of legal instruments? Did it consider the relative merits of penal and other forms of law?

47. While the report extensively described French policy against social exclusion, it offered little information on affirmative, targeted, remedial measures taken to meet the specific needs of certain disadvantaged segments of the population. The Committee against Torture had found that there were cases of ill-treatment by law enforcement officers and prison guards, and the victims of such cases brought before the European Court of Human Rights were often non-European. The Government had mentioned legal provisions and educational efforts to make the police sensitive to the problem, but had it considered taking measures to encourage the recruitment of more ethnically diverse personnel in such services?

48. Mr. LECHUGA HEVIA noted that it had not been possible to eliminate racist manifestations in France despite the measures taken against them at the national and European levels. The Minister of Justice had laudably called for greater vigilance on the part of public prosecutors and procurators-general and for tailoring penal policy to local circumstances. However, the Committee needed to know how such measures were reflected in practice.

49. Immigration policy was one of the most controversial issues. While every country had the right to control immigration and determine the difference between political and economic refugees, the Committee was particularly interested in the treatment, guarantees and rights reserved for both categories. The report referred to the adoption on 11 May 1998 of a new law on aliens and the right to asylum, but offered little information on the practical implications it had had. As to social exclusion, while average income in France had risen by some 33 per cent, the proportion of households living below the poverty threshold had remained the same. What was their situation? Ethnic minorities would presumably be heavily represented among the population living beneath the poverty line. What measures were being considered to improve their plight?

50. The Government's funding of associations working against racism was praiseworthy, but the report offered no precise information on measures taken under article 4 (b) to declare illegal and prohibit organizations which promoted and incited racial discrimination, apart from a reference to a 1936 law empowering the President of the Republic to dissolve such organizations

by decree. The fact that one organization had been thus dissolved not once but three times would seem to indicate the ineffectiveness of that procedure. How did France meet the requirements of article 4, which was a key provision of the Convention?

51. Lastly, the situation of asylum-seekers was of grave concern. There was a lack of resources to deal with asylum requests. Could the delegation provide further information on the Government's approach to improve conditions?

52. Mr. PILLAI paid tribute to France's long tradition of defending democratic ideals. In that context, he referred to the vital role played by political parties in promoting democratic values and eliminating racial and sexual discrimination. During election campaigns, however, political parties sometimes forgot that role and he wondered how the political parties in France conducted themselves during elections and whether minorities were represented in the parties and had some influence on the parties' platforms.

53. Civil servants working in areas which affected civil and political rights, which were just as important as economic, social and cultural rights, played an important role in the elimination of racial discrimination. Although the report described measures adopted by the Government to increase awareness of discrimination and human rights among civil servants, he wondered what specific actions had been taken when abuses of human or civil rights, for example by the police, had been found.

54. Mr. YUTZIS, referring to paragraph 24 of the report, requested more statistics on the numbers of asylum-seekers, and asked how many applications were successful. He also asked for a clearer explanation of the differences between the various types of asylum, such as constitutional and territorial asylum, as mentioned in paragraphs 26 and 27.

55. With regard to education, it would be of interest to know what efforts had been made to include both Christian and Islamic points of view in school curricula.

56. He noted the Government's intention to fight exclusion, a term which encompassed a wide variety of situations, but requested more specific information on how it intended to do so. He pointed out that exclusion occurred not only on the psycho-sociological level, through ostracism and exclusion from society, but also included abuses such as denial of the right to work, to adequate lodging and to health. More facts would be useful in helping the Committee better understand exactly what groups were being served by the Government's efforts to fight exclusion.

57. He asked how well represented ethnic groups were in the police, since under-representation contributed to misunderstanding and aggravated tension between the police and ethnic groups. He deplored the fact that members of ethnic groups arrested for crimes were often punished twice over in that they received prison sentences and were also deported at the end of their sentences. That situation was intolerable and would seem to be an example of discrimination in effect.

58. All multiracial societies ran the risk of having to deal with political organizations based purely on racist or discriminatory principles. He therefore expressed concern at the strength of

the Front National in recent elections. He wondered whether the Government's efforts to eliminate exclusion were truly effective and noted that in market economies the risk of exclusion was greater for those who were not able to share in economic progress.

59. Mr. ABOUL-NASR, referring to paragraphs 130 to 137 of the report, inquired about the distinction between the notions of "defending" and "disputing the existence of" crimes against humanity. He noted that the paragraphs in question referred only to the Holocaust during the Second World War but stressed that crimes against humanity had occurred before the Second World War and continued to occur. For example, he wondered whether crimes against the Roma people, against Aboriginals or the crimes perpetrated in Bosnia and Herzegovina would also be covered by the relevant French legislation on crimes against humanity. His point of view was less Eurocentric and his only guide was the terms of the Convention. Any legislation which attempted to limit the notion of crimes against humanity to one group or one incident would be a violation of the Convention.

60. The members of the delegation of France withdrew.

ORGANIZATIONAL AND OTHER MATTERS (continued)

61. The CHAIRMAN recalled that Mr. Banton had requested a special debate on the situation of the Roma people and suggested that an open-ended working group composed of Mr. Banton, Mr. Diaconu, Mr. Valencia Rodriguez, and Ms. January-Bardill should consider the advisability of that proposal and report back to the Committee.

62. It was so decided.

63. The CHAIRMAN said that some members had expressed concern that not enough time had been allotted for communications under article 14 but reassured members that the Committee would take whatever time was needed to deal with communications. He asked Mr. Nobel to consult with other members on whether they preferred to appoint one rapporteur or a small working group of three persons to deal with communications, in the light of the expanding workload in that area.

The meeting rose at 6 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-sixth session

SUMMARY RECORD OF THE 1374th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 7 March 2000, at 10 a.m.

Chairman: Mr. SHERIFIS

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Twelfth, thirteenth and fourteenth periodic reports of France (CERD/C/337/Add.5) (continued)

1. At the invitation of the Chairman, the members of the delegation of France took places at the Committee table.

2. The CHAIRMAN invited the delegation of France to reply to the questions raised by the Committee members at the preceding meeting.

3. Mr. de BAYNAST (France) said that France valued the Committee's consideration of its reports and deemed it essential for reports to be considered on a regular basis. Certain issues, such as the role of political parties, would be covered in written replies, but additional information could be provided immediately on other points. Indeed, he wished to make it clear that all the major French political groups had repeatedly condemned alliances with the far right, on a number of occasions. They had recently taken a stand against Mr. Haider's coalition in Austria.

4. Replying to the questions concerning Europe, he said that the development of European structures would lead to progress in action to combat discrimination and racism. The directives on both employment and discrimination in general could not fail to have a positive impact, as any failure to implement them by the States of the European Union would result in legal proceedings and penalties. However, Community law must be harmonized if better cooperation was to be obtained in combating racial discrimination. That was also true at the global level; for that reason France was participating actively in the work to conclude the draft United Nations Convention against Transnational Organized Crime.

5. Concerning the fundamental issue of training, a European police training school and a network of training schools for judges were to be established, in order to raise the awareness of judges and policemen concerning the need to combat racism and xenophobia. The authorities believed that a common system of criminalization should be established if action to combat crime was to be effective.

6. Referring to remarks about the Schengen Agreement, he said that the area covered by the Agreement was not a "fortress", as some appeared to be saying. It could not be claimed that border controls had increased since the signing of the Agreement. They had in fact decreased, as controls were maintained only at the borders of countries which were not part of the Agreement. Policy regarding the right of asylum and issuance of visas had become a Community matter.

7. Replying to a question by Mr. Aboul-Nasr about punishment of crimes against humanity, he noted that France was committed to cooperating with the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, and, especially, was

participating actively in the negotiations on the establishment of an International Criminal Court. It was important for each country to contribute to the establishment of an international system of justice. In that connection, the French authorities were counting on the Committee's support in order to encourage as many States as possible to ratify the Convention on the Establishment of an International Criminal Court.

8. Perhaps the procedure provided for in article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination was seldom applied in France because individuals preferred to use the European Court of Human Rights, which occasionally awarded financial compensation. That did not in any way imply a desire on the part of the French authorities to obscure the Committee's role.

9. The criminal procedure reforms which were to take place in France in 2000, with the adoption of "legislation relating to the presumption of innocence", should provide replies to many of the Committee's questions. In that connection, the Committee's influence could be seen in the steps taken by the French authorities in the areas of protection of the rights of foreigners and action to combat discrimination.

10. Mr. LERCHER (France), referring to visas, said that matters concerning foreigners were handled by two ministries, the Ministry of Foreign Affairs and the Ministry of the Interior. It could not be said that the visa requirement for a stay of more than three months reflected racial discrimination, as visas were required for nationals of practically all non-European Union States. Concerning visas for a period of three months or less, France merely applied European legislation, especially the Convention applying the Schengen Agreement, pursuant to which States parties required a visa from the nationals of 133 countries.

11. The advantage of the Schengen Agreement was that obtaining an entry visa for entry into one State party to the Convention gave the bearer free movement throughout all the States covered by the Agreement. In that connection, article 1, paragraph 3, of the Convention clearly stated: "Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.". Similarly, the Committee's general recommendation XIV (forty-second session, 1993), which stated, "In seeking to determine whether an action has an effect contrary to the Convention, it [the Committee] will look to see whether that action has an unjustifiable disparate impact upon a group distinguished by race, colour, descent, or national or ethnic origin.", indicated that France complied with its obligations, as the 133-country list had been drawn up with no consideration for race or colour. National origin, in the meaning of citizenship, rather than ethnic origin, was the determining factor.

12. A country's right to monitor the nationals of other countries was among the sovereign rights of States as recognized by public international law. The list in question had been drawn up on the basis of criteria relating to assessment of the risk of illegal immigration and to maintenance of public order and security, in terms of France's relations with a particular country, and more particularly whether reciprocity agreements existed in certain areas. Those were legitimate objectives as traditionally upheld by the case law of the European Court of Human

Rights. France endeavoured to meet those objectives using proportional means. Proportionality arose at various stages of the visa issuance procedures. For example, although the authorities did check visitors' resources, as part of their assessment of "migratory risk", they would not prevent a traveller with small means from entering French territory if the traveller in question was given accommodation by friends or relatives. Similarly, persons not subject to the visa requirement could be refused entry into the territory if they could not prove that they were in possession of sufficient resources for the duration of their stay. That having been said, persons holding a visa were only refused entry in exceptional cases.

13. Since the adoption of the Act of 11 May 1998, any refusal to issue an entry visa had to state the grounds on which it was based. On the whole, therefore, the visa system established by France pursuant to the Convention applying the Schengen Agreement sought to meet a legitimate objective using proportional means.

14. In reply to questions by Mr. Banton and Mr. Nobel concerning the fines and penalties imposed on carriers who transported refugees to French territory, he explained that French procedure was in keeping with the supporting measures provided for in the Convention applying the Schengen Agreement, under which carriers were liable to penalties if they did not ensure that the aliens they brought into France were in possession of the documents required to enter the territory of the European Union. As that mechanism had been incorporated into the Act governing aliens' sojourn in France, appropriate penalties could be ordered by the Ministry of the Interior, under the supervision of the competent administrative court. However, the carrier was not responsible when the foreign travellers' documents did not contain obvious irregularities and in the case of asylum-seekers whose application was granted. That provision remained applicable in cases where the asylum-seeker was not granted asylum, if the application had not been manifestly unfounded pursuant to the Convention relating to the Status of Refugees. The Act of 11 May 1998 did not question the possibility for transport operators to carry refugees and did not regard them as acting on behalf of the competent French supervisory authorities.

15. Ms. DOUBLET (France), replying to a question by Mr. Yutzis concerning the right of asylum, said that 31,800 applications had been received by the French Office for the Protection of Refugees and Stateless Persons (OFPRA), which had considered 24,000 of them, accepting 4,190 and rejecting 20,127. The low acceptance rate - 20 per cent - was due to the fact that applications related to very different situations, and nationals from countries such as Afghanistan, Sri Lanka, Rwanda and Iran enjoyed an acceptance rate of over 70 per cent, while the rate for nationals from countries heavily represented among asylum-seekers was very low. In particular, the rejection rate for applications based on economic reasons and difficult personal situations, but not on the Convention relating to the Status of Refugees, was very high.

16. The competent authorities considered applications for asylum on an individual basis; they did not refer to a list of "safe" countries and reject or accept applications on the basis of applicants' nationality. For example, the particularly high percentage of rejections of applications from Roma was not the result of a deliberate policy but of the failure of most Roma applications to supply personal details.

17. All applications were considered by OFPRA specialists and all decisions rejecting an application could be appealed before an appeals board, whose decisions had suspensive effect.

18. Concerning the low percentage of asylum-seekers interviewed by OFPRA, to which Mr. Nobel had referred, she noted that the Office's efforts to increase that percentage were adversely affected by the considerable increase in the number of asylum applications, which had risen from 17,400 in 1996 to 30,908 in 1999, considerably overburdening services. However, OFPRA heard every asylum-seeker whose application it found justified, and all refugees could be heard by merely lodging a request with the Asylum Board. The Government was aware of the difficulties the situation entailed, and was studying budgetary measures to shorten the time limit for processing asylum applications.

19. Concerning territorial asylum, she said that under the Act of 11 May 1998 OFPRA offered protection to persons meeting the conditions set forth not only in the Geneva Convention but also in the preamble to the French Constitution providing for the right of asylum for freedom fighters. Although that provision had a limited number of beneficiaries, it did enable France to grant asylum to persons not meeting the conditions set forth in the Convention relating to the Status of Refugees. Whatever the legal basis for granting refugee status, all beneficiaries received certification of refugee status and the corresponding residence permit and were entitled to allowances from OFPRA.

20. Mr. Fall had noted that accommodation for asylum-seekers in France was inadequate. That was true, as only 3,600 beds were provided for 30,000 applicants. However, the system included multiple possibilities; the persons concerned could receive a monthly allowance of FF 1,800 or be given accommodation in a reception centre. The Government was planning to increase the capacity of the accommodation centres and the authorities gave particular consideration to humanitarian situations, ensuring that women and children were given priority treatment.

21. Regarding termination of refugee status, former refugees retained the right to reside in France. The Act of 11 May 1998 stipulated that territorial asylum could be awarded to an alien who was able to prove that his life or freedom was threatened in his country or that he would be exposed to treatment contrary to article 3 of the European Convention on Human Rights. The law did not establish an obligation to grant asylum, but merely a possibility; however, it should be read in conjunction with the Order of 2 November 1945, which prohibited the refoulement of an asylum-seeker to a country where his life or freedom would be in danger. In that connection, 318 applications for territorial asylum had been granted between December 1998 and December 1999.

22. In reply to questions by Mr. Diaconu, she said that the acceptance rate for asylum applications at borders was high: of 4,817 applicants in 1999, 4,209 had been authorized to enter the territory and only 608 had been turned back, pursuant to the Order of 2 November 1945 and the Decree of 20 May 1982, which stipulated that the Ministry of the Interior could not reject such applications unless they were manifestly unfounded pursuant to the Convention relating to the Status of Refugees.

23. In that connection, 20 days was the maximum period during which a person could be held in a waiting area. Although the first four days required only an administrative decision, an eight-day extension, renewable for a further eight days, required a special judicial decision. In any event, extensions of the waiting period were related to the increase in applications, which overburdened the bodies examining applications and led to unsatisfactory conditions of accommodation. However, the Government intended to build an adequate reception centre in 2001, pending which temporary measures would be taken to improve conditions in the existing centres.

24. Regarding guarantees for persons held in waiting areas, six associations and UNHCR had access to waiting areas to check on refugees' situation during the asylum procedure, and conditions of access for associations had been made more flexible by a decree adopted in June 1998.

25. Concerning the rights of aliens, Mr. Banton had expressed concern at the penalties prescribed for persons who helped aliens reside in French territory illegally. The provisions in question had become inapplicable since the adoption of the Act of 11 May 1998, which exonerated relatives, spouses, ascendants, descendants and cohabitees who assisted aliens in an irregular situation. If penalties did prove necessary they were ordered by a judge who examined each case individually.

26. Replying to criticism over the dilapidated facilities used to hold aliens at the point of departure, she said that considerable progress had been achieved, in particular in Paris, under a programme for the renovation of holding centres begun in 1999, which had led to significant improvements in living conditions in the centres. In addition, a decree on the organization of the centres and a set of model regulations were under preparation. Finally, each holding centre signed an agreement with a local hospital for the prompt provision of medical care if needed.

27. Concerning the 62,000 "clandestins officiels" without legal status referred to by Mr. Nobel, on the one hand those figures were unverifiable by definition, and on the other they undoubtedly included illegal aliens who had applied unsuccessfully for an exceptional legalization of their situation under the circular of 24 June 1997. Under that procedure, designed to legalize the situation of long-time residents or persons with family attachments in France, 140,000 applications had been considered, of which 69,549, or 56 per cent, had been accepted. Finally, although the Government had pledged not to use information provided in the applications against aliens in an irregular situation, those whose applications had been rejected had to leave French territory or risk deportation if stopped by the police for any reason.

28. Under the Act of 11 May 1998, 28,904 residence permits had been issued. The Act reflected the Government's desire to be more accepting of foreigners, whose presence was an asset to the country, and acknowledged their right to live in France on a long-term basis when they had close personal and family ties in the country. The Act made it possible to give more consideration to the situation of persons whose lives and freedom were under threat in their own countries.

29. Mr. Banton had expressed concern at the conditions of foreigners in custody, in particular those of North African origin. On 24 June 1997 the Ministry of the Interior had reminded the police of the urgent need to respect the ethical principles of their job fully, in order to avoid any discrimination. Her delegation did not have information about the cases in Trappes and Versailles which had been mentioned. However, the Salmouni case was indeed particularly serious, as it had involved a violation of the fundamental right to human dignity. The authorities had accordingly conducted an inquiry and punished the police officers responsible. The court had noted that their behaviour had been unjustifiable and sentenced them to 18 months in prison. The convicted officers had lodged an appeal with the Court of Cassation.

30. Concerning police operations which had led to actual riots in disadvantaged neighbourhoods, she said that some police behaviour, although intolerable and certainly deserving of punishment, had not been racially motivated but aimed at maintaining public order and restoring legality in lawless areas. All the cases in question had led to judicial proceedings or administrative inquiries and all the offences had been punished. In 1998, 84 sanctions had been ordered against police officers for illegitimate use of force.

31. The Government also focused on prevention in the training of police officers and gendarmes, who received theoretical instruction in police ethics and human rights supplemented by practical exercises. Since early 1999, the Police Training Division had been emphasizing the fostering of dialogue with the people through education of police officers in the social, cultural and religious features of the communities living in the national territory. An ethics guide published in 1999 for use in schools and police stations dealt in practical terms with the daily situation of police officers, and stressed their obligation to respect the principle of non-discrimination in using the power to exercise restraint.

32. Parliament was considering a draft law to establish a national ethics commission for security matters, which would be responsible for the independent monitoring of all services performing security work (police, gendarmerie, customs and private companies) to ensure that they respected ethical principles in performing their jobs. The commission could be addressed by parliamentarians or by any concerned individual who was a victim or a witness of failure to respect such principles; it would have investigatory powers and be able to issue opinions in specific cases or on general issues.

33. The draft law relating to the presumption of innocence contained a provision stipulating that lawyers could meet with their clients from the outset of custody. That reform, eagerly awaited by numerous associations, had also been requested by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

34. Prison personnel were bound fully to respect ethical rules on pain of disciplinary measures which could include dismissal. From 1988 to 1997, 44 such measures had been ordered, as opposed to five in 1998. None of the offences in question (physical abuse, insults) had been racially motivated. Prison staff were given human rights training as a preventive measure. In addition, a draft code of ethics for prison personnel had recently been submitted to the National Consultative Commission on Human Rights.

35. Recruitment into the national police corps took place through a competitive examination open to all French citizens. However, she did not have information on the national and regional origins of police officers. Efforts had been made to ensure increased representation of the different components of French society on the police force. For example, to include more young people from immigrant families and those living in neighbourhoods considered to be difficult, six high schools (lycées) linked to police schools had taken a preparatory class in 2000 for the police school entrance examination.

36. Regarding identity checks, she said that, whatever their legal basis (verification of residence permit, judicial or preventive supervision), identity checks were always conducted according to objective criteria and were carefully monitored by the authorities. However, she would send the Committee written information on that subject at a later date.

37. Mr. CAPIN DULHOSTE (France), referring to the implementation of the legal machinery for combating discrimination, said that a distinction should be made between the period before and after referral to the court. The difficulty in applying criminal legislation was due more to victims' reluctance to bring charges than to the treatment given to complaints once they were lodged. Efforts in the last few years had focused on overcoming victims' reluctance by encouraging the public services to reach out to them, through the courts and legal centres, which provided victims with guidance, information, advisory assistance and material aid, such as the letter-writing services. There were also mediation measures, which made it possible to settle minor disputes, such as conflicts between neighbours, between individuals under the supervision of an association or person authorized by the prosecutor; such measures were found to produce satisfactory results.

38. Mention should also be made of the Departmental Commissions for Access to Citizenship (CODAC), headed by the prefect and Public Prosecutor, and comprising representatives of Government and associations who dealt with various types of complaints. Of the total number of complaints, 40 per cent related to discrimination in employment, 15 to problems encountered in contacts with the administration and 15 to discrimination in leisure activities, the most obvious example being incidents where foreigners or French people of foreign origin were refused entry to discotheques. The CODACs also dealt with cases involving racist flyers, insults or physical attacks. Such complaints led either to judicial proceedings, if CODAC transmitted the complaint to the Public Prosecutor, an administrative inquiry or a mediation procedure, mainly in cases where the offence would be difficult to prove from a criminal standpoint.

39. In that connection, he cited legal decisions in which victims of discrimination had received compensation: a discotheque owner who had refused entry to five youths had been sentenced to a fine and damages; a landlord who had refused to let an apartment to a Frenchman of North African origin had been sentenced to compensate not only the individual concerned and his wife, but each of three anti-racism associations which had joined the proceedings as civil claimants. Mention should also be made of a decision by the Victims' Compensation Commission concerning the payment of FF 250,000 to the widow of a Moroccan national killed by skinheads in connection with a demonstration by Front National supporters.

40. As Mr. Banton had said, criminal law was not the only means of combating racial discrimination. Labour law also offered victims redress. Under French law, all disputes between employers and employees were heard by the labour courts. In cases of refusal to hire, disciplinary sanction or dismissal related to discrimination based on race, sex, lifestyle or trade-union or political activities, the burden of proof was shared between the victim and the person complained against. Sharing of the burden of proof was soon to become the operative principle in all areas of labour, with the imminent adoption of a draft law extending it to include refresher training and internal advancement.

41. Regarding disputes between individuals and the administration, he stressed the important role played by the administrative courts, which could declare illegal certain decisions of the administration, such as refusal to register foreign children in the State schools or prohibiting foreign teachers from voting or being elected to their establishment's school board.

42. Double penalties, or criminal convictions plus deportation, were not handed down without due consideration for the severity of the offences and the personality of the individuals in question, their cultural and linguistic ties with France or their country of origin and their family situation.

43. In reply to a request for further information by Mr. Aboul-Nasr and Mr. Diaconu, he said that French law made a distinction between justification of crimes against humanity, which was understood as justification of all crimes against humanity with no restriction in time, and questioning the existence of crimes against humanity, which applied only to crimes committed during the Second World War. It had been deemed necessary in 1990 to adopt an article of a law to combat the newly-emerging revisionist trend, which should not be given the benefit of freedom of expression. In any event, French law punished the crime itself, whether it involved deportation, forced sterilization or genocide, with no restriction in time.

44. Regarding penalties against owners of public establishments who refused access to certain persons for discriminatory reasons, he said that licences could be revoked and establishments closed by way of complementary penalties.

45. Mr. WILKINSON (France) said that several Committee members had asked for clarification of the concept of exclusion, with which they were not familiar. The concept had to do with the problem of cultural transition and the meeting between population groups of French and foreign origin. Action to combat exclusion was aimed at making relations between the two commonplace, or, to use a United Nations and European expression, at "mainstreaming", and at integrating the individual into the national community. It derived from the principle of republican equality, according to which all citizens must have access to the same culture and be given the same tools to cope with life's difficulties. Being initiated into French culture, however, did not imply that they gave up their culture of origin, but that they acquired the culture of the host country, which in turn claimed the new arrivals as its own. Action to combat exclusion was aimed at avoiding the emergence of mutually-rejecting subcultures which caused tensions among groups or created parallel economies. It was therefore important for the transition between the first and second generation of immigrants to take place harmoniously. However, the second generation faced considerable difficulties: lack of proficiency in either language and a tremendous gap between the culture and symbolic and sociological references of

their parents and those of the world in which they lived, compounded by the rapid decline in parental authority. For all those reasons, all State social work diplomas and training courses had been thoroughly revised in the previous eight years and the profession had been radically transformed over the previous 10 years. Action to combat exclusion was now the most important category in municipal budgets, and the central Government had increased project assistance, provided additional credits, created 125,000 partially subsidized jobs and continued to pay a minimum wage to all individuals, regardless of nationality. In addition, since the 1998 adoption of a law on action to combat exclusion, all individuals regardless of race or nationality received universal sickness insurance.

46. On 10 February 2000 the Ministry of Employment and Solidarity had announced a reform of the labour law to ensure a fairer distribution of the burden of proof and make it easier to lodge remedies in discrimination cases.

47. The Roma, or travellers, needed assistance to enable them to take advantage of the above-mentioned integration measures. There were approximately 230,000 Roma in France, most of whom were of French nationality. One third were nomads, one third intermediate and one third settled; 70 per cent were illiterate and slightly more than half of the children attended school. It was true that parents showed some apprehension with regard to the system of values taught at school. Outreach units had been in existence since 1989 and, in two cities, there were schools intended for children from 6 to 12 years old, located near the travellers' parking areas. They could also follow correspondence courses.

48. Regarding the harkis, under a law adopted in 1994, which had entered into force in 1995, a series of measures costing FF 4 billion had been implemented, consisting of the payment of lump-sum grants, reduction of overindebtedness, improvement of housing and assistance to surviving spouses.

49. Mr. CELLARD (France) said that he wished to provide additional information on the right to housing and action to combat discrimination in housing. The law on the implementation of the right to housing was aimed at providing all persons living in France, whether of French or foreign origin, with housing of an adequate standard for long-term occupancy. It was strengthened by the "housing section" of the law on exclusion, which dealt with subjects as diverse as prevention of evictions, increasing housing supply and action to combat the exploitation of housing-seekers by slum landlords. His delegation could provide the Committee with a number of reports on the subject.

50. Particularly worthy of emphasis was the issue of foreigners' access to low-income housing. A national survey held every four years on the subject showed that, on a constant basis, there were twice as many foreigners as French people occupying low-income housing, which was probably due to the fact that foreigners were less likely to own their dwellings than were ethnic French people. However, with 800,000 low-income housing applications pending, much remained to be done, and, in order to combat abuses and favouritism in the assignment of low-income housing, it was planned, in the framework of the law on exclusions, to assign applications registration numbers with a view to detecting irregularities, in particular undue delays.

51. In more specific areas, Parliament was considering a draft law on the reception and sojourn of the travellers, which created an obligation for communes of more than 5,000 inhabitants to provide travellers with reception and parking areas. Finally, an interministerial commission on housing for immigrants was working on the problem of migrant workers' centres. A five-year plan for improving the centres had been prepared.

52. Ms. COMPAGNIE (France) said she would reply to questions by Mr. Banton and Mr. Diaconu, who had requested additional information about the use of regional and minority languages in the schools and the treatment of immigrant communities in the media.

53. In addition to the information contained in paragraphs 213 et seq. of the report (CERD/C/337/Add.5) on instruction in the mother tongue under the heading of compulsory modern-language programmes, courses in Basque, Breton, Picard and other regional languages were offered as an option at the pre-school, primary, secondary and university levels, together with compulsory instruction in French.

54. The Government paid close attention to the maintenance of original languages in the overseas territories and had delegated some authority in that area to the local authorities. Instruction in the Polynesian language was part of the normal school curriculum in French Polynesia, and 15 Kanak languages were officially recognized in New Caledonia. The Government also endeavoured to promote Creole languages in the overseas departments and territories.

55. Concerning the treatment of immigrants in the media, the public radio and television stations broadcast a number of programmes intended more specifically for immigrant communities, in an effort to help them integrate. For example, a series, "Parlez-moi", was intended to help immigrant women learn French and become more familiar with everyday life in France. Every weekend, RFO programmes were rebroadcast on television. Programmes such as "Sagacité" and "Télécité" targeted young immigrants in the suburbs. Regarding cinema, an attempt was made to feature young film makers of African or North African origin by providing them with financial assistance and organizing film festivals for them.

56. The CHAIRMAN asked whether the members wished to put more questions to the delegation of France or make any other comments, before the Country Rapporteur took the floor.

57. Mr. ABOUL-NASR, while acknowledging the goodwill shown by the delegation of France, said that he was not fully satisfied with the replies. There was not sufficient time to reopen the discussion, but he strongly urged the Government to take into account the remarks made at the preceding meeting and to endeavour to guarantee equal treatment to everyone, whether victims of the Second World War - who were not limited to victims of the Holocaust - or victims of slavery. He hoped that more determined efforts in that area would be reflected in the next report.

58. Ms. JANUARY-BARDILL said that she would like to make three brief comments.

59. First, although it was important to provide officials and administrative personnel with appropriate training in order to raise their awareness of the need to combat discrimination, such efforts were not sufficient. It was also necessary to ascertain whether the persons concerned had in fact changed their attitudes. The delegation had not clearly indicated who was responsible for assessing results.

60. Experience showed that integration efforts were often conducted with an underlying feeling of superiority on the part of the host country. Much tact and discernment was necessary to avoid such efforts resulting in alienation and loss of identity on the part of the "integrated" groups.

61. Finally, a good way of resolving the problem of inequality in employment might be to set numerical objectives, in terms of the demographic importance of the different population groups. That system had yielded positive results in other countries.

62. Mr. SHAHI asked for clarification concerning convictions of police officers who used excessive force. Were the penalties proportional to the gravity of the acts committed?

63. Mr. de BAYNAST (France) said he understood why Mr. Aboul-Nasr had not found the replies fully satisfactory, but would like again to emphasize the hopes raised by the prospect of an international system of justice, which would offer a genuine system of prevention and punishment to combat racist and xenophobic crimes and crimes against humanity, and would no doubt be more effective than national legislation, which was affected by prevailing attitudes at a given time and in a given context.

64. Replying to Ms. January-Bardill, he said that officials and administrative personnel who committed abuses were liable to disciplinary measures. Their theoretical and practical training emphasized ethical concerns, which had an influence on their grading. He fully shared Ms. January-Bardill's opinion concerning the risks of an over-hasty integration process. The French authorities were fully aware of the fact that the cultural diversity of the immigrant population groups was an asset for the country. Throughout France the minarets of mosques could be seen standing next to church steeples. Far from opposing the manifestations of different cultures, the Government did not hesitate to invest in order to help them endure.

65. In reply to Mr. Shahi, he confirmed that penalties ordered against police officers who committed abuses were proportional to the gravity of the acts in question. Such penalties could include imprisonment and dismissal.

66. Mr. BANTON (Country Rapporteur) said he was pleased to see that France found the Committee's comments and "critical view" to be helpful. Governments often had no knowledge of some very interesting experiments conducted right next door, and there was no doubt that dialogue with the Committee offered them a way of remaining open to different points of view and new concepts. However, if the exercise was to be constructive, the new awareness had to be followed by practical effects. The Committee took great care in drafting its conclusions and recommendations to countries, and it would appreciate countries giving them the attention they

deserved and furnishing information on the efforts they had made to give effect to them. In its 1994 report, the Committee had recommended that France should recruit more people of different ethnic origins among those responsible for the implementation of human rights legislation. Even though improvements had been made in that area, there was no indication whether they had been the result of the Committee's remarks. He hoped that France would endeavour in its next report to provide clarifications of that kind, which gave the Committee an indication of the effectiveness of its work.

67. The CHAIRMAN endorsed Mr. Banton's remarks. He had no doubt that France would take account of those remarks in its next report, which, he noted, was due in the fairly near future.

68. The delegation of France withdrew.

The meeting rose at 1.05 p.m.

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Fifty-sixth session

SUMMARY RECORD OF THE 1375th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 7 March 2000, at 3 p.m.

Chairman: Mr. SHERIFIS

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Second to fourth periodic reports of Zimbabwe (CERD/C/329/Add.1; HRI/CORE/1/Add.55)

1. At the invitation of the Chairman, Mr. Chinamasa, Mr. Chidyausiku, Mr. Chifamba, Mr. Zavazava and Mr. Maonera (Zimbabwe) took their places at the Committee table.

2. Mr. CHINAMASA (Zimbabwe) said he was pleased to continue the dialogue with the Committee, since it was an essential element in the fight against racial discrimination. He informed the Committee that, while progress had been made in many areas, the situation had remained unchanged in others and had worsened in one or two others. He reminded the Committee of his country's colonial past and said that it would take time to remove the last vestiges of discrimination by the minority against the majority.

3. In the area of education, he acknowledged that, owing to a lack of resources for the public school system, the Government had been forced to authorize private schools. Their high fees excluded many black pupils, with the current ratio of white to black pupils being approximately 60 to 40. Only with increased economic development would more black parents be able to afford to send their children to such schools. The Government had, however, made some progress in encouraging private schools to offer scholarships and bursaries to students in need. In fact, no schools in Zimbabwe were strictly private, since the Government continued to pay salaries to all teachers, although the private schools supplemented their salaries.

4. With regard to minority language rights, the Government had decided to have minority languages taught up to grade 3 in areas where minorities such as the Tonga, Venda and Sotho were dominant but implementation had been hindered by the lack of teaching materials and trained teachers, although progress had been made in the broadcasting of news and educational programmes in minority languages. In the field of human rights education, a decision had been made to incorporate the teaching of the culture of human rights into major subject areas called "carrier subjects" such as history and language which, since they were examinable, would ensure greater commitment on the part of students. Full implementation of that decision had, however, been delayed pending the development of appropriate teaching materials.

5. Regrettably, the situation seemed to have worsened in the area of land distribution. He recalled that during the colonial era some 4,000 white farmers had occupied more than one half of the land and land redistribution had been a major demand during the struggle for independence. Unfortunately, largely because of a lack of resources to compensate white farmers for appropriation of their land, the Government had been unable to redress the situation. Consequently, some ex-combatants of the liberation struggle had recently taken the law into their own hands and occupied farms in an attempt to force the Government to act. He expressed the hope that following the elections a lasting solution would be found to the land issue.

6. With regard to marriage, marriage relationships had in the past been covered by both general and customary law. The latter was ethnically based and, for example, recognized polygamy, but affected Africans only. A decision had been taken to enact a unified marriage laws act which would continue to recognize both monogamous and polygamous marriages for all ethnic groups. Previous problems regarding inheritance rights had been resolved and the relevant current legislation was fair and neutral and did not discriminate on the basis of sex or race.

7. With respect to legislation to eliminate all forms of racial discrimination, he believed that the provisions of the recently passed Prevention of Racial Discrimination Act were wider in scope than required under the Convention and were not confined to race and nationality, as had been acknowledged by the Country Rapporteur. Legislation alone, however, could not eliminate discrimination. The most effective way of dealing with it was to implement appropriate administrative measures, as the Government was attempting to do in the area of land reform, where the current situation perpetuated discrimination.

8. In response to the Committee's questions and comments about specific articles of the Convention following its consideration of the initial periodic report of Zimbabwe, he referred the Committee to the document he had distributed, but wished to touch on a few particular points. With regard to article 2 (c), no discriminatory legislation was currently in effect. In connection with article 3, he had already explained his Government's position on private schools. With regard to article 4, the recent Law and Order Maintenance Act criminalized racist statements and propaganda and prohibited racist organizations. With regard to article 5, the Ombudsman was empowered to investigate human rights abuses. Any problems were due to a lack of resources, but the enabling legal environment for the Ombudsman's work did exist. To the best of his knowledge, no cases involving racial discrimination had been brought before the courts although he recognized that more comprehensive reporting was necessary. He noted that some allegations had been made in the press, for example concerning property transactions. Current legislation would allow for cases of discrimination to be brought before the courts, but he stressed the difficulty of proving, for example, that a property owner had refused to rent or sell property to someone specifically because they were black.

9. In conclusion, he looked forward to an open dialogue with the Committee and would respond frankly to any questions the Committee wished to ask.

10. Mr. NOBEL (Country Rapporteur) commended the interesting report and the frankness and honesty of the oral presentation. He recalled the historical background of Zimbabwe - minority rule until 1980, followed by ethno-political conflict between the Shona majority and the Ndebele minority. A political settlement of that conflict had been sought in 1987 through the merger of the Shona-dominated Zimbabwe African National Union (ZANU) and the largely Ndebele Zimbabwe African People's Union (ZAPU).

11. He noted that other United Nations treaty bodies, the United States Department of State and Amnesty International had been critical of the level of respect for human rights in the country and questioned whether discrimination against the Ndebele and other minorities had truly been eliminated. The Minority Rights Group had reported that living standards for ordinary Ndebele citizens had not improved and that they were denied equal access to social and

economic benefits. There were allegations that investment in the water supply system and the development of the regional capital Bulawayo had been deliberately blocked. The cultural rights of the Shangaan and Venda peoples, who accounted for 2 per cent of the population, had been only partially recognized, and leaders of the Tonga people displaced after the construction of the Kariba dam in the 1950s complained that economic and cultural support to them continued to be inadequate. He would welcome the delegation's comments on those problems.

12. In 1996, the Committee had noted that the establishment of the Office of the Ombudsman had been a positive step but had expressed the hope that its mandate would be broadened in order to make it more efficient. The Ombudsman Amendment Act of 1997 annexed to the report of Zimbabwe did seem to broaden the Ombudsman's mandate. If that was the case, however, he wondered why in August 1998 the Human Rights Committee had also seen fit to recommend that the mandate of the Ombudsman should be broadened. Rather than being appointed by the President, the Ombudsman should be appointed by Parliament, report to Parliament, have his budget decided by Parliament and enjoy parliamentary immunity. He should also have the power to investigate how public power was used by all public officials. In that context, it gave cause for concern that the Act gave the Minister of Justice the power to arbitrarily put an end to an investigation by the Ombudsman in cases which were deemed to be not in the public interest, or which would threaten national security

13. Paragraph 3 of the periodic report stated that anyone running a private school had to be duly authorized and registered by the public authorities but did not specify what criteria needed to be met in order to receive authorization. The paragraph also stated that no fees or charges should be increased by more than 10 per cent without the approval of the Secretary for Education. He requested more information on who paid those fees, exactly what charges and fees might be increased and on what basis the Secretary for Education decided whether or not to approve an increase of more than 10 per cent.

14. Paragraph 4 referred to problems faced while trying to implement policy regulations to ensure a better racial balance in private schools. He was encouraged by those efforts since the Committee had recommended that steps should be taken by the Government and the schools to reduce the negative consequences of the racial segregation created by the parallel system of public and private schools. He requested more information on the kinds of problems the Government was encountering so that the Committee could discuss ways of solving them with the delegation. He noted with interest that the Government funded all teachers' salaries in both private and public schools, and that the teaching of minority languages was of serious concern to the authorities. The Government's position with regard to teaching schoolchildren in their mother tongues was commendable even though that policy ran up against material constraints. The information provided in the report on the teaching of human rights, especially the idea of identifying "carrier" subjects, was innovative and constructive. It would be very interesting to hear more about that approach in the future and about progress made.

15. Regarding discrimination in employment, the report cited the Public Service Act and provided information on measures taken to counter discrimination in the civil service. What legal procedures existed for the enforcement of the Act, and what remedies were proposed? Under the Convention, discrimination was to be countered in all sectors, public and private. Were there any instruments prohibiting discrimination in the private sector?

16. During its consideration of the previous report the Committee had requested further information on land distribution, and the Government had replied by supplying a description of the resettlement programme. Did the phrase "5 million hectares of land in the large-scale commercial farming sector" refer to land under white, black or mixed ownership? In the criteria for becoming a beneficiary of the land redistribution programme, paragraph 26 (c) mentioned that the applicant must be able to command sufficient funds in cash and fixed assets to carry out the intended programme. Were there no plans, for example through the granting of loans, to assist poor black farmers who were fully able to cultivate the land but lacked financing?

17. The report described the Prevention of Discrimination Bill, and he looked forward to receiving a copy of the Act as adopted, referred to in the oral presentation. When would it enter into force?

18. It was to be regretted that the report appeared to confuse the purposes of articles 2 and 4, and the difference should be emphasized. The former obliged the Government to take positive action to combat racial discrimination, while the latter required the criminalization of racist propaganda, organizations and activities.

19. Refuges, migrants and other foreigners in Zimbabwe reportedly lived in poor circumstances. For example, the Committee on the Elimination of Discrimination Against Women had noted that poor, migrant and other marginalized women were particularly vulnerable, and often had to resort to prostitution, which was a criminal act in Zimbawe. Zimbabwean law excluded foreign spouses of nationals from claiming Zimbabwean citizenship, thus depriving them of the rights to reside in or enter the country that were applicable to citizens. Similarly, children born to Zimbabweans abroad were not entitled to citizenship. On both counts, the Human Rights Committee had called on the Government to bring the law into conformity with the International Covenant on Civil and Political Rights. Amnesty International had reported an incident of police brutality against refugees occupying the premises of the Office of the United Nations High Commissioner for Refugees (UNHCR).

20. It was a source of satisfaction that in 1997 Zimbabwe had ratified the amendments to article 8 of the Convention, following a recommendation by the Committee. Were there any plans to publish the Government's report and the Committee's concluding observations? Did the Government plan to make the declaration to allow for the submission of individual complaints under article 14?

21. Mrs. ZOU Deci said that the Government of Zimbabwe had made considerable progress since the colonial period, but that certain problems persisted, particularly the question of land redistribution. Some 70 per cent of the population was rural, and 70,000 white farmers held 70 per cent of the country's rich farmland. That was an obstacle not only to economic development, but also to the eradication of inequalities among the races. The Government had resolved to settle the land problem, and had described its programme in the report. Did "privately owned land" mentioned in paragraph 25.1 refer to the 8.3 million hectares of land mentioned in paragraph 24 (b)? Were the 8.3 million hectares in question exclusively the property of white farmers? What was meant by land "acquired" in paragraph 25.1? Would it be expropriated or purchased and, in the latter case, at what price? The report further stated that people would be able to file applications to receive the farm units. Would such applicants

eventually pay for the land, and if so, how much? Were land prices reasonable, and affordable by poor black farmers? It was not clear whether all the applicants for land redistribution must be black, and whether there were many blacks who met the stringent requirements to qualify as beneficiaries described in the report.

22. Concerning the basic human right to education, which was crucial to overcoming inequality, the report described the background of unequal access for blacks and whites, but provided no information on the current situation. How many blacks were engaged in intermediate and higher education? Had the illiteracy problem been solved?

23. Mr. de GOUTTES said that the presence, once again, of Zimbabwe's Attorney-General was a guarantee of quality and expertise in the dialogue between the delegation and the Committee.

24. The adoption of the Prevention of Discrimination Act was a welcome development. Did that law cover all forms of discrimination, or did it focus on discrimination on racial grounds? Did it fulfil the requirements of article 4 of the Convention? From the oral presentation, he had understood that the Ombudsman had been empowered to investigate complaints relating to human rights and racial discrimination. Had any cases of racial discrimination been brought to the Ombudsman's Office? The delegation had recognized that problems persisted with regard to education and land distribution, and had highlighted the Government's concern for those matters, but had not provided any examples of complaints of racial discrimination which had been brought before the courts.

25. Following the discussion of Zimbabwe's initial report, the Committee had expressed the hope that the Inter-Ministerial Committee on Human Rights and Humanitarian Law would disseminate the State party's report and the Committee's concluding observations, as well as the follow-up to the Committee's recommendations. Had it done so? Had the Government instructed prosecutors to take effective action against racial discrimination and to collect data on the number of complaints, prosecutions and convictions for racist acts? The Government must aid and support victims and encourage the police and judicial authorities to prosecute acts of discrimination.

26. He asked for the head of delegation's opinion as to whether respect for local customs and traditions could justify the maintenance of polygamy as described in the section of the report devoted to marriage laws, and whether the need, albeit legitimate, to penalize racist acts justified sentences which could include imprisonment with forced labour. Lastly, he asked whether the Attorney-General could explain why his country had given asylum to the former head of State of Ethiopia, Mr. Mengistu, who was wanted in Ethiopia for crimes against humanity, including some which would no doubt fall within the purview of the Convention.

27. Mr. ABOUL-NASR pointed out that the problem of land distribution, for all its seriousness and the danger of social unrest, was not unique to Zimbabwe, and that if there was sufficient political will measures could be taken to ease the process. One way was by limiting, without discrimination, the amount of land which could belong to a single landowner. Certain solutions to the problem of financing land purchases by the poor were available, such as

government credits, World Bank loans to fund government purchases, or payment in instalments over an extended period. He was confident that a just solution could be found and the risk of social unrest could be avoided.

28. Ms. JANUARY-BARDILL observed that the question of land reform was an emotional as well as a material issue, as she had seen in her own country, South Africa, and that finding a solution would not be easy. The criteria for access to land outlined in the report appeared to be highly focused on credentials and qualifications. To what extent could a farmer's lengthy practical experience be taken into account? What support mechanisms would be set up to assist people in the five-year development plans? The report indicated that individuals could acquire holdings, but did not specify whether land could be acquired communally. In South Africa, such communal claims had facilitated the productive use of the land by tribal groups, for example. Had the Government established any financial facilities, such as development banks, to help in land acquisition? Lastly, the Government might consider delegating responsibility for administering the land reform policy to an independent body, so as to ensure a degree of impartiality in the process.

29. Mr. SHAHI said he associated himself with the remarks of the Country Rapporteur and other members, notably Mrs. Zhou Deci. The statement in paragraph 23 of the report to the effect that agricultural land was a finite resource and thus the ever-increasing demand for it could never be satisfied provided a realistic assessment of the situation regarding land distribution. He noted that some 70,000 families had already benefited from the redistribution programme, but wondered how many more would be satisfied, or remain unsatisfied, particularly in the rural areas. He noted that some privately-owned land would be acquired by the State authorities. From personal experience he was keenly aware of the difficulties involved in land redistribution. He hoped that Zimbabwe's experience would be more satisfactory.

30. Referring to the legislation adopted recently on the prevention of discrimination, he welcomed the statement in paragraph 38 of the report that it would be broader in scope than was strictly required by the Convention. However, when drafting the legislation, closer attention should have been paid to the provisions of article 4 of the Convention, which would not be fully covered in the new Act.

31. The information contained in the report with respect to article 5 of the Convention was confined to marriage laws. Since article 5 in fact covered a wide range of human, civil, economic, social and cultural rights, he looked forward to more comprehensive information on the implementation of the article in Zimbabwe's next periodic report.

32. With regard to the Office of the Ombudsman, he expressed the hope that the shortage of staff experienced in human rights matters would be overcome in the near future. In general, Zimbabwe's efforts in the field of human rights education were laudable.

33. He suggested that greater attention should be paid to the general guidelines regarding the form and contents of reports to be submitted by States parties under article 9, paragraph 1, of the Convention.

34. Mr. BRYDE said that, if he had understood the information contained in the report correctly, the purpose of the land reform was not to put all large-scale commercial units at the disposal of landless people; some would be acquired by the State authorities without any compensation to their owners, while others would remain privately owned. Such a system left considerable power in the hands of the Government and also entailed the risk of discrimination arising between different landowners. It was therefore advisable for the system to be monitored by an independent body. However, what criteria were there for selecting farms to be acquired by the State? Furthermore, was there any judicial control to ensure that such criteria would be met?

35. Mr. PILLAI welcomed the attention being paid by Zimbabwe to education, especially human rights education. However, it would not suffice to include human rights education in the national curriculum. It was also important to find suitable teachers who observed human rights values in their daily lives and to provide them with appropriate training. Different teaching methods would be required at university level, where the focus should be on international human rights standards and mechanisms. A further aspect of human rights education which must not be overlooked was the special training required for civil servants. All too often in the former colonies civil servants retained colonial attitudes which were not conducive to the promotion of human rights. Lastly, noting that the programme of human rights education in schools would not focus specifically on racial discrimination, he stressed the importance of that aspect in a country like Zimbabwe with such cultural and linguistic diversity.

36. Mr. DIACONU commended the delegation's frank attitude to the dialogue with the Committee. He applauded the efforts of the Zimbabwean Government to eliminate discrimination in education and to promote minority languages. While welcoming the adoption of legislation on the prevention of discrimination, he endorsed Mr. Shahi's comment that it was not in full conformity with the provisions of article 4 of the Convention.

37. He failed to understand how the adoption of the Public Service Act in 1996 would ensure that there was no racial discrimination in the public and private sectors, as implied in paragraph 19 of the report, and sought clarification in that regard.

38. More information should have been provided in the report on legislation to implement the wide-ranging provisions of article 5 of the Convention; he hoped that it would be provided in the next periodic report.

39. Mr. BANTON requested the delegation to provide the Secretariat with a copy of the final version of the Prevention of Discrimination Act. He was particularly concerned about the availability of State party reports and the Committee's concluding observations thereon to the general public. Posting them on the Internet was a particularly economical solution provided that the requisite technology was available. In view of Zimbabwe's plans to improve human rights teaching, steps should be taken to ensure that instruments such as the Convention and relevant reports were accessible to teachers and other specialists. In Zimbabwe was it possible to gain access to such reports, either from the Ministry of Justice or from a public library, prior to their consideration by the relevant treaty body?

40. The CHAIRMAN said by way of general comment that he attached great importance to the question of the availability of State party reports and the dissemination of information about

the Convention and work of the Committee, not only to the experts concerned, but also to the public at large. The Internet solution would not be relevant to countries where it was not accessible to large sectors of the population. An appropriate reference to the matter must be included in the Committee's model concluding observations.

41. Mr. ABOUL-NASR, clarifying his earlier statement in order to dispel any misunderstanding, said that while land reform was certainly a very difficult task, it was not an impossible one. Many countries had experience which other countries could draw on and adapt to their own needs.

42. As to the availability of States parties' reports, he pointed out that access to the Internet in countries like Egypt was very limited. Moreover, on account of the country's high rate of illiteracy, making the printed version of such reports available would be of only relative use. Clearly some further reflection was required on better ways and means of publicizing human rights instruments and related reports in future.

43. Mr. CHINAMASA (Zimbabwe) said that Zimbabwe was committed to complying with the provisions of the Convention and that its failure to do so was largely due to a problem of resources. The Country Rapporteur had raised an issue which had haunted Zimbabwe for a very long time, namely the conflict between the Shona and Ndbele people. Some background information would explain the reasons for that recurring conflict.

44. There had been two tragic moments in the history of Zimbabwe. The first was the colonial period which had ended in armed conflict resulting in the declaration of independence in 1980. Following independence, rightly or wrongly, a policy of reconciliation had been adopted under which amnesties had been granted to the perpetrators of abuses under colonialism as well as members of the four different armies that had taken part in the conflict. Thereafter the two main liberation movements had formed a coalition Government as the political parties ZAPU and ZANU.

45. The second tragic moment had been triggered by the discovery of a large arms cache belonging to one of the former liberation armies, which had led to a further armed conflict between the Government and ZAPU, which represented the Ndbele ethnic group. The positive aspect of that conflict, however, was that in 1987 a Unity Agreement had been forged between the two political parties ZANU and ZAPU. It was worthwhile noting that the overwhelming majority of the population was Shona (65 per cent), with the Ndbele representing the second largest group (15 per cent), and the remainder being made up of smaller minority groups such as Tonga, Venda, Sotho, and people of Caucasian and Asian origin. Clearly, since people tended to vote for political parties representing their own ethnic groups, the Ndbele would never have had the opportunity to share power without the Unity Agreement. A further benefit of the Government of National Unity had been that politicians of Ndbele origin had begun to see issues from a national rather than a minority perspective. Some people belonging to the Ndbele minority held very high-ranking positions in the present Government.

46. There had never been a deliberate policy of marginalization. Some areas were marginalized owing to uneven development in the country - a problem that had not yet been fully resolved. The marginalized areas in question were not those typically inhabited by the Ndbele

people, but rather by the Tonga, Sotho and Venda. Such uneven development, not only in terms of land but also in terms of infrastructure, was a legacy of colonialism. The colonialists had taken the pick of the land and had driven indigenous communities to the more peripheral and less fertile areas of the country. The only decent health and education facilities in such areas had been built following independence, but much work remained to be done before they could be brought up to the same standard as the rest of the country.

47. He had the impression that people in some quarters were happy to highlight the divisions, difficulties and uneven development which Zimbabwe had inherited and had not yet been able to overcome. It was not true that investment in certain areas had been blocked. On the contrary, his Government was working to encourage foreign investment in all parts of the country. He would have expected some understanding of Zimbabwe's difficulties in creating an environment conducive to attracting foreign investment, whether to Harare or to the Bulawayo area.

48. The Ombudsman was appointed by the executive. To allay the fears of the Committee, he stressed that the Ombudsman was not a lame duck. For one thing, the conditions of her appointment were the same as those of a judge, in terms of both salary and irrevocability. The point was to give her the independence she required to investigate the exercise of public power. The Ombudsman's function, which had originally been confined to investigating administrative action, had been enlarged through an amendment to allow investigation of human rights violations. The allocation of resources was decided by the Minister for Finance, who brought a budget to Parliament, which could then ask for more resources in a particular area. The main problem facing the Ombudsman had not been a lack of independence, but a lack of resources. Initially, action taken by the army and the police had been excluded from the Ombudsman's remit, but it had soon become clear that over 90 per cent of the complaints had concerned the army or the police; the Ombudsman's terms of reference had then been amended to cover those areas as well. Today, nothing was excluded from the Ombudsman's scrutiny.

49. He had been asked to expand upon paragraph 4 of the report; he hoped that in the next report, further information would be included on the number of private schools. It was difficult, however, to provide such figures in a multicultural, multi-ethnic society without raising suspicion in the different ethnic groups.

50. With regard to paragraph 3, the Country Rapporteur had asked about the criteria governing the Secretary for Education's approval of an increase in school fees. If the Ministry of Education concluded that an increase in fees was not meant to maintain standards but as an instrument of exclusivity, then the increase would be refused. The Government's goal was to achieve an ethnic balance in the country's schools and make them accessible to and affordable by the whole population.

51. On a point of clarification concerning paragraph 19, he said that there were two pieces of legislation on employment in Zimbabwe: the Labour Relations Act which governed employment in the private sector and contained provisions prohibiting racial discrimination in hiring, promotion and advertisement, and the Public Service Act covering the public sector. The Prevention of Corruption Act, a copy of which would be provided to the Committee, was already in force, but as yet there was no case law.

52. On the issue of family law, Zimbabwe had done more than any other African country to reform its laws and bring them into line with the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination. The one area which remained outstanding was that of marriage. It had been asked whether perpetuating polygamy was consistent with respect for human rights. His Government was of the view that that practice could not be abolished overnight, but could only be done away with gradually. Many people were already polygamously married. Given Zimbabwe's mores, legislation to prohibit polygamy would be very unpopular and would not be approved in Parliament.

53. He was surprised at the concern expressed about the rights of refugees and migrants: in that area, Zimbabwe's record was second to none. Zimbabwe had a large population from Malawi, Zambia and Mozambique, a legacy of the colonial period. Upon independence, it had given persons from those countries already living in Zimbabwe the right to acquire citizenship, which had in effect removed the class of peasantry otherwise called migrants. Some had chosen to retain the citizenship of their countries of origin, having been given the choice because Zimbabwe unfortunately did not allow dual citizenship.

54. Legislation on citizenship gave preference to female spouses of Zimbabwean citizens; male spouses of female Zimbabwean citizens did not have the same rights. However, a bill was currently before Parliament to introduce equal treatment of both female and male spouses of Zimbabwean citizens.

55. He was not aware that there was any problem with migrant women and prostitution. Legislation prohibited soliciting in public; that applied to men and women alike.

56. As to whether there were any plans to publish the country report and the Committee's recommendations in Zimbabwe, his Government had frankly been remiss on that score and would do what it could to remedy the situation. He hoped that some progress could be reported when Zimbabwe presented its next periodic report. He would ask his Government to consider adopting a policy allowing for individual complaints under article 14.

57. Anyone familiar with Zimbabwe knew of its excellent record concerning investment in education, although the Government was now having difficulty in sustaining it. At independence in 1980, there had been about 600,000 pupils enrolled in primary schools; today there were 3.5 million. There had been 67,000 pupils in secondary schools; today there were 1.5 million. There had been one university with an enrolment of 1,500 students; today it had 12,000, and the country had five State universities in all, as well as two private universities. In 1980, the sole university had had only about 200 blacks enrolled out of a total of 1,500 students. Today, the university's student body was almost entirely black, because, after independence, whites had sent their children to private schools. Once a student qualified for enrolment, tuition and room and board were State-paid. Unfortunately, that was one of the achievements that would be very difficult to maintain, and his Government was attempting - so far unsuccessfully - to introduce cost recovery. In any case, Zimbabwe's literacy rate of 82 per cent showed how much progress had been made in the area of education.

58. He said that he would look into what could be done to address the provisions of article 5 more fully in the next report.

59. Concerning article 4, he believed that the provisions of the Prevention of Discrimination Act did in fact comply with the Convention, but would welcome any suggestions for improving them. Every effort would be made to give more complete information on the implementation of article 6 in Zimbabwe's next periodic report.

60. Replying to a question on whether a punishment of one year's imprisonment with labour was not too heavy (para. 36), he said that in a multi-ethnic society, racism was like a powder-keg. If it was handled carelessly, it could have disastrous consequences, such as riots and loss of property. The punishment was therefore appropriate and showed how seriously Zimbabwe took issues of racial discrimination.

61. As to why Zimbabwe had granted asylum to Mr. Mengistu despite the fact that he had been accused of crimes against humanity, he said that it was very easy to be wise in retrospect. Mr. Mengistu had been admitted to Zimbabwe at the request of the United States and Canada, because it had been felt that granting him asylum would lessen the suffering brought about by the conflict in Ethiopia. In any case, Zimbabwe was not the only, or the last, country to perform such a service.

62. Mr. Pillai had rightly pointed out that human rights education was not merely a matter of curricula, but also of teachers. The best approach was to introduce such issues into the curriculum of teacher training colleges and in refresher courses. The teaching of human rights at university level was unfortunately confined to the law faculty.

63. Human rights training in the armed forces, prisons and the police was taking place with the assistance of the International Committee of the Red Cross (ICRC). and was an area in which the international community had provided considerable financial assistance. Such courses were much appreciated.

64. The land issue was an emotional question to which there were no easy answers. Land, cattle and goods had been taken from blacks during the colonial period without any payment or compensation, and the process had continued until the early 1970s; hence, it was still very fresh in people's minds. The practice was not confined to Zimbabwe; it had also occurred in South Africa, Namibia and Botswana, and was the legacy those countries had inherited. Zimbabwe was trying to blaze a trail in resolving the issue. Resources promised to help deal with the problem, had not been forthcoming. Among the steps being taken was a bill that had been approved in Cabinet to impose a heavy agricultural land tax on all land exceeding a fixed surface area. It was hoped that the revenue accruing from the tax would help towards paying compensation. Outlining the controversy about paying compensation for land which had originally been taken away without compensation, even though the current owners might have purchased it, he said that how those problems were resolved would greatly depend on the success

of the agricultural land tax. If sufficient resources were not accumulated, it was not inconceivable that certain land would be taken without compensation. The problem of land reform in Zimbabwe was compounded by the issue of race and ethnic origin. He was convinced that a solution could be found. Whenever his Government had stated that it might actually take land without paying compensation, although it had not done so to date, Zimbabwe had been punished by the international community. Many of the problems currently facing Zimbabwe had been due to the withdrawal of confidence by the international community as a result of statements made on the land issue.

The meeting rose at 6 p.m.

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Fifty-sixth session

SUMMARY RECORD OF THE 1376th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 8 March 2000, at 10 a.m.

Chairman: Mr. SHERIFIS

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The meeting was called to order at 10.10 a.m.

SOLEMN DECLARATION BY THE NEWLY ELECTED MEMBERS OF THE COMMITTEE UNDER RULE 14 OF THE RULES OF PROCEDURE (agenda item 1)

1. In accordance with rule 14 of the rules of procedure, Mr. BOSSUYT, a re-elected member of the Committee, made the following solemn declaration:

> "I solemnly declare that I will perform my duties and exercise my powers as a member of the Committee on the Elimination of Racial Discrimination honourably, faithfully, impartially and conscientiously."

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Second, third and fourth periodic reports of Zimbabwe (CERD/C/329/Add.1) (continued)

2. At the invitation of the Chairman, Mr. Chinamasa (Zimbabwe) took his place at the Committee table.

3. Mr. CHINAMASA (Zimbabwe) stressed that resolution of the land issue would be of crucial importance for the political future of Zimbabwean society.

4. The newly independent Republic of Zimbabwe had inherited, on its birth in 1980, a country divided in accordance with the apartheid system into "white areas", comprising 16.5 million hectares of urban and rural land and held under freehold title by 225,000 whites, and communal lands, comprising 16 million hectares occupied by 12 million blacks. Following the exodus of whites after independence, the total area of the white-owned land remained in the hands of a mere 12,000 whites. An initial distribution had enabled black peasants from the communal areas to buy, under individual title, 3.5 million hectares of white-owned land. At the current time, the land held by black Zimbabweans comprised 16 million hectares of marginal and infertile communal land and 3.5 million hectares owned by individual farmers. For their part, the remaining 4,000 white owners held 13.3 million hectares of agricultural land. The Government aimed to implement a land redistribution programme under which 8.3 million hectares would be taken from the white-owned land and redistributed among black farmers. Five million hectares would remain in the hands of white farmers.

5. In response to the question whether the Zimbabwean Government was conducting land reform or a land redistribution programme, he said that it was doing both at the same time, with the emphasis on redistribution, because of the lack of resources to conduct a land-reform programme. At the same time, it planned, in the long term, to implement a nationwide land-reform programme which would cover all land, including communal land, with a view to facilitating the implementation of an effective environmental protection programme. Eventually, it aimed to set in place a communal land ownership system similar to a freehold system.

6. With regard to land acquisition, the question whether the land for redistribution to blacks should be bought from the current white owners or simply seized without compensation was exciting heated debates in Zimbabwe. Adherents of the first approach believed that the owners should receive some compensation while those of the second argued that the owners, or their ancestors, had not paid for the land themselves. To date, however, all acquisitions had been made against compensation and the land had been freely redistributed to residents from over-populated areas. In carrying out its land redistribution programme, the Government was committed to preserving the productivity of agricultural land and to bearing in mind other economic imperatives. Accordingly, it planned to follow a policy whereby agricultural land would be redistributed to people living in over-populated areas and encouragement would be given to approved black farmers (qualified farmers, graduates from agricultural colleges and universities), with the granting of financial assistance.

7. He stressed that, in Zimbabwe, the land question was extremely emotive and that it was difficult for the two communities to discuss it in a rational manner, separated as they were by age-old prejudices and entrenched positions.

8. In response to the question whether the private sector could participate in the conduct of the land reform programme, he said no, since the industrial and economic sector was monopolized by the white community, which did not support the project.

9. With regard to the criteria to be applied in designating the white owners whose land would be distributed, he explained that such factors as the proximity to congested communal areas and the suitability of the land for more intensive resettlement would be taken into consideration. The Government would endeavour to find a redistribution formula, which ensured that the commercial farmers were not put out of business while ensuring that the farms themselves did not exceed a maximum area. To date, all farmers whose lands had been redistributed had been compensated and the opponents of the systematic payment of compensation were primarily concerned with the unutilized land or nature areas, which clearly should not be subject to compensation. Finally, he said that the redistribution decisions were subject to appeal.

10. Mr. NOBEL (Country Rapporteur) commended the Zimbabwe delegation on the quality of its report and thanked it warmly for the well-organized, enlightening and instructive responses it had provided to the committee members.

11. He wished, however, to draw the attention of the delegation to the 1998 Prevention of Racial Discrimination Act, the text of which had been distributed during the meeting by the delegation. The provisions of that act appeared to meet the requirements of article 2 but not entirely those of article 4 of the Convention. Paragraph 1 of article 6 of the Act, which stipulated that no person should make or knowingly communicate a statement based on racial superiority or hatred, provided a condition - the presence of a substantial risk that the statement may adversely affect the reputation, rights and freedoms of other persons in Zimbabwe - which detracted from its scope and strength, in terms of article 4 of the Convention. While understanding that the Zimbabwean legislature had endeavoured to strike a balance between the needs to prohibit racial discrimination and the wish not to interfere excessively or ineffectively in private conversations, he stated his view that the current text lacked firmness. He hoped that Zimbabwe would adopt a

stronger text, closer to the provisions of article 4, leaving it to the courts to decide on a case-by-case basis whether the risk of adversely affecting the reputations, rights and freedoms of other persons had been attested.

12. Mr. CHINAMASA (Zimbabwe) thanked the Committee for its comments and assured members that Zimbabwe would bear those comments in mind in its efforts to improve the application of the Convention in its territory.

13. The CHAIRMAN thanked the delegation of Zimbabwe for the quality of its report and the sincerity of its statements. Welcoming the constructive and exemplary dialogue which had developed between Zimbabwe and the Committee, he said that the Committee had thus concluded its consideration of the second, third and fourth periodic reports of Zimbabwe.

14. The delegation of Zimbabwe withdrew.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

International Women's Day

15. Mr. ABOUL-NASR drew attention to the celebration that day, 8 March 2000, of International Women's Day. He proposed that a message of support and encouragement should be sent to the chairman of the Committee on the Elimination of Discrimination against Women (CEDAW).

16. It was so decided.

Arrangement to follow up the statements and relevant activities of the Office of the High Commissioner for Human Rights

17. At the invitation of the Chairman, Ms. Raadi, coordinator of the international conventions team in the Support Services Branch of the United Nations Office of the High Commissioner for Human Rights and representative of the Secretary-General, took her place at the Committee table.

18. Mr. ABOUL-NASR said that it would be useful for the Committee to have prompt access during its deliberations to the statements by the High Commissioner for Human Rights regarding serious violations of human rights. He suggested that Mr. Banton be entrusted with following up the statements of the High Commissioner, so that the Committee could give them its support, where appropriate, and that the High Commissioner be requested to keep the Committee informed of the results of her efforts to resolve the problems mentioned in her statements. Mr. Banton could draft a working paper which would be considered by an open-ended working group entrusted with receiving and taking into consideration comments transmitted to members of the Committee by member States. The text drafted by the working group would be submitted to the Committee for approval, which would express its opinion on the issues under consideration.

19. The CHAIRMAN said that he took it that the Committee members wished to accept the suggestion put forward by Mr. Aboul-Nasr.

20. It was so decided.

Preparation of draft model concluding observations (CERD/C/56/Misc.14; document distributed in-session, in English only)

21. The CHAIRMAN informed the new members that, during its previous session, the Committee had decided to review the format for its conclusions at the current session, so as to make them more concise and to take into account experience gathered over a number of years. Mr. Banton had prepared draft model concluding observations and the experts were invited to give the draft their consideration.

22. Mr. BANTON explained that the document was only a model and was not intended to be fully applicable in all cases. It contained standard formulations designed to facilitate the work of the secretariat and the country rapporteurs. He read out several amendments which he wished to make to the text.

23. In paragraph 11 of the draft, he proposed the addition of a sentence inviting the international community to be generous towards Governments, to help them alleviate the hardship of displaced persons, on the following lines: "[...] and recommends that all necessary means be taken in order to alleviate their plight; in this respect, the Committee calls on the international community to assist the Government with generosity in this important but difficult task".

24. He suggested that "displaced persons" should be inserted, after "ethnic minorities", in paragraph 15, on access to the courts and to administrative bodies, in the list of persons to whom this access should be available. In paragraph 19, the word "some" before "members" could be deleted, without altering the meaning. Paragraph 20 should be divided into two, the second sentence of the paragraph becoming paragraph 21. The first sentence, concerning the publication of the reports and conclusions of the Committee, could be amended to read: "The Committee recommends that the States' reports be made readily available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized".

25. Ms. ZOU said that it was pointless for the Committee to consider the document paragraph by paragraph, since it was clear that the model would always be adapted to the particular case, and she suggested, if there was no objection, that the Committee members should approve it en bloc. She commended Mr. Banton on having combined the two parts of the old form, namely, "Main concerns" and "Suggestions and recommendations", and on having thereby resolved the problem of repetition, which had worried the Committee.

26. Mr. de GOUTTES agreed with Ms. Zou that the draft was not an immutable instrument, but a suggested guideline which should be used with flexibility, since some paragraphs applied to all States parties and others only to some.

27. Mr. ABOUL-NASR, while supporting the suggestions by Ms. Zou and Mr. de Gouttes, pointed out that in article 9, the Convention stipulated that the Committee should make "suggestions and general recommendations" which should be reported to the General Assembly. He noted that these words had disappeared from Mr. Banton's draft and suggested that, in accordance with article 9, they should appear in the Committee's conclusions.

28. Mr. BANTON said, in response, that the Committee's practice had developed over the years to bring it into line with that of other treaty bodies and that the terms of article 9 had disappeared as a consequence of amendments suggested during meetings of the chairpersons of the bodies established under the international instruments. Recalling that, prior to the 1978 World Conference, the Committee had given its interpretation of certain terms from the Convention, including "suggestions", which covered suggestions to one State party in particular, and "general recommendations", which applied to recommendations to all States parties, he stated his opinion that the form in which the Committee's conclusions were presented had developed in a manner implicitly in line with the terms of article 9.

29. The CHAIRMAN said that the disagreement between Mr. Aboul-Nasr and Mr. Banton was of no consequence because Mr. Banton's draft was a document with no mandatory force, which the country rapporteurs would apply mutatis mutandis.

30. Mr. FALL said that the draft was of particular interest for the new members, since it provided a useful framework. He requested the secretariat to have it translated and circulated.

31. The CHAIRMAN said that the secretariat had taken note of the request.

32. Ms. JANUARY-BARDILL, speaking as a new member, seconded Mr. Fall's request. She had two suggestions regarding the structure of the document: that sections B and C should be reversed, so that it began with positive aspects, and that the concerns and recommendations should be separated.

33. Mr. BANTON said, in response to the previous speaker, that he would have put the sections in the order that she had suggested, were it not for the need to take into consideration the manner in which other treaty bodies presented their conclusions. He did not think it advisable to separate the concerns and the recommendations, as the Committee had done this previously and it had led to numerous repetitions, weakening the potential impact of the document on the reader.

34. Mr. DIACONU congratulated Mr. Banton on having drafted model conclusions with entirely Cartesian logic. This did not mean, however, that the model should be applied to the letter; it should clearly be adapted to each particular situation.

35. Reverting to the comment by Mr. Aboul-Nasr, he did not feel that the difficulties in section B and the concerns in section D overlapped. The factors and difficulties referred to in section B were objective obstacles, attributable not to the State itself but to external circumstances, while the concerns in section D related to the manner in which the State was implementing the Convention or, more precisely, to its inadequacies and shortcomings. The two things were not comparable and could not be taken up together.

36. Finally, he wished briefly to draw the attention of members to paragraph 20 (or 21, in the proposed new version) of the draft. Line 3 of that paragraph said that the State party's next periodic report should be "comprehensive". In practice, a comprehensive report was not required in all cases; it was sometimes sufficient for the country to submit an updated report. Accordingly, he suggested that the word "updated" should be inserted after "comprehensive", with the two words separated by a slash, to read "a comprehensive/updated report".

37. Mr. NOBEL wondered whether the model should not also contain references to the amendment to article 8 and to the declaration provided for in article 14.

38. Mr. SHAHI said that article 9 of the Convention, to which Mr. Aboul-Nasr had referred, concerned both suggestions and recommendations of a general nature which the Committee submitted to the United Nations General Assembly, but, in its conclusions submitted to the State party after consideration of its periodic report, the Committee also formulated recommendations. It was the use of the same term which was the source of confusion, although he was not sure how that could be remedied.

39. Mr. RECHETOV pointed out that the model was a purely hypothetical document.

40. In practice, not only did situations differ widely from country to country, but the very first user of the proposed model would not be the country rapporteur, but the representative of the secretariat, who would inevitably feel bound by the way the document was laid out.

41. When he received the document from the secretariat, the country rapporteur would wonder whether things had really proceeded in that way or whether the representative of the secretariat had merely followed the model. The more stereotyped the procedure followed by the Committee, the greater the restrictions placed on the members of the secretariat responsible for drawing up the first version of the report. This most definitely was not the desired goal.

42. Mr. ABOUL-NASR entirely agreed with the comments of the previous speaker. He questioned the usefulness of such a document and the reasons for its presentation. As far as he knew, the way in which the conclusions had been drafted had never caused any problems in the past.

43. In addition, contrary to what Mr. Banton had said, he did not think it necessary to copy what other committees were doing. Each convention was different and, by endeavouring at any cost to harmonize committee procedures, one risked distorting the meaning of the conventions which they were intended to serve.

44. Mr. BOSSUYT said that use of the word "model" in the heading of the document had perhaps caused a misunderstanding, giving the document an imperative force when it was only meant to be illustrative. It might have been better to have used the word "example".

45. Mr. de GOUTTES said that, in his experience, the drafting of a model or a standard form was never an entirely neutral exercise. It invariably had the effect of guiding or shaping the reasoning of those who used it.

46. If, as the new members had remarked, the document in question could facilitate the work of future rapporteurs, it should not be given an official character nor, in any event, be annexed to the report intended for the General Assembly.

47. The CHAIRMAN suggested that the word "model" in the title of the document should be replaced by "example" or "indicative text".

48. Mr. SHAHI wondered whether - given that the document would be only illustrative in effect - the concerns and recommendations should, in fact, be taken up jointly, as proposed in section D, or if they should continue to be treated separately, as before.

49. Mr. BANTON said that, apart from Ms. January-Bardill, to whom he had explained the reasons for his having chosen this lay-out, everyone appeared to agree that the two points should be taken up together.

50. Ms. JANUARY-BARDILL said that, having heard the explanation by Mr. Banton, she joined the consensus.

51. The CHAIRMAN, summarizing the discussion, said that the Committee members had agreed that the text under consideration was only of an illustrative nature, that it should be translated into the Committee's working languages and that the word "model" in the title should be replaced by "example" or "suggested text". The Committee would, however, accept the suggestion, with regard to section D, that the concerns and recommendations should be dealt with together.

52. It was so decided.

Procedure for consideration of reports in the presence of the delegations from the countries concerned

53. The CHAIRMAN said that certain delegations had no idea of the manner in which the consideration of their reports would be conducted and could, for example, run out of time, putting the Chair in a very awkward position, as he had to interrupt them.

54. Accordingly, he suggested that a short information note should be prepared, for delegations coming to Geneva, telling them what was expected of them both during the presentation of their report, which should not be a mere repetition of its content, and when responding to the questions, by giving concise answers, with any necessary supplementary information provided in the following report.

55. Mr. FALL said that the idea was excellent. When he had been on the delegation of his country, information of that kind would have been extremely useful. The information could simply be included in the letter sent to countries invited to present reports.

56. Mr. NOBEL believed that such a procedure was already followed and he was therefore unable to support the suggestion. If possible, there should be an insistence that delegations

should not repeat in their introduction what was already contained in the report, but should instead give general information, for example, on the conditions under which the report had been drafted or events occurring since it had been compiled.

57. Mr. de GOUTTES supported that suggestion.

58. Mr. SHAHI also thought that the idea was a very good one, provided, however, that excessively tight limitations were not placed on delegations' speaking time. Sometimes, reports were short and could be introduced very quickly, leaving more time available for the exchange of questions and answers and, at other times, the converse applied.

59. The CHAIRMAN said that flexibility appeared to be the key word. The information note would be of a purely illustrative nature and designed exclusively to assist delegations in making their preparations.

60. Mr. RECHETOV said that it was vital to be very flexible when allotting time. It sometimes happened, for example, that a very short report, which could be presented in several minutes, was supplemented with a number of annexes not necessarily available in languages familiar to Committee members and their content needed explaining. This meant that more time was required for the presentation but that the Committee was better informed as a result, and exceeding the recommended time limits in this way was useful.

61. Mr. ABOUL-NASR said that, if delegations of States parties were to be asked to stick to time limits, the Committee should also show some discipline in this regard. The irresistible conclusion was that adoption of the country rapporteur system had not enabled the Committee to gain any time when meeting to consider the reports. The Committee should give more attention to the answers and to the information provided orally by the delegation and should not be content merely to react to what was said in the report. In addition, the Committee's working methods should be harmonized and all States parties given equal treatment.

62. The CHAIRMAN said that the point raised by the previous speaker regarding the management of time was very pertinent, since certain presentations by rapporteurs were much too long. Experience showed that 30 minutes was usually sufficient for the presentation of a report. Committee members should endeavour to keep their own statements brief and to avoid repeating one another.

63. Mr. BANTON, reacting to Mr. Aboul-Nasr's suggestions, said that, if the Committee members did not take into account information provided orally by delegations, it was perhaps because they were only human and could not remain alert for more than a certain period of time. Delegations should be made aware of this consideration, which should be mentioned in the letter.

64. Mr. de GOUTTES said that efforts should be made to ensure that delegations had the necessary time to respond to all the Committee's questions. If the Committee was to have a fruitful dialogue with delegations, States parties should be given time to prepare their reports and, to this end, should not be held to a tight deadline for the submission of their reports, since they would not be considered for at least one, if not two, years.

65. The CHAIRMAN suggested that Mr. Banton should draft, in consultation with the Committee secretariat, a letter to inform delegations about the conduct of the Committee's meetings and the requested time limits for statements, while indicating that the information was of an indicative nature. Flexibility should be maintained and the mutatis mutandis principle followed.

66. It was so decided.

Working methods for the procedure for determining the admissibility of communications submitted under article 14 of the Convention

67. The CHAIRMAN recalled that the Committee had to decide whether it wished to appoint a special rapporteur or a working group to consider communications received under article 14 of the Convention and to make recommendations to the Committee regarding their admissibility. He invited Mr. Nobel to report on his consultations with Committee members on this matter.

68. Mr. NOBEL said that the current manner in which those communications were handled was not satisfactory and he recommended that a small working group (three people) should be established. The group should be set up as soon as possible and should meet during the Committee's current session.

69. The CHAIRMAN referred to paragraph 1 of rule 87 of the Committee's rules of procedure stating that the mandate of the working group would consist in "making recommendations to the Committee regarding the fulfilment of the conditions of admissibility of communications laid down in article 14 of the Convention and assisting the Committee in any manner which the Committee may decide".

70. Mr. ABOUL-NASR pointed out that, to date, the secretariat had performed that function.

71. The CHAIRMAN said that the secretariat would continue to perform the function of assisting the working group or the rapporteur.

72. Mr. ABOUL-NASR wondered how the other bodies established under international human rights instruments were organized for the purpose of dealing with communications from individuals and whether there would be financial implications if the working group met outside the Committee's sessions.

73. Ms. RAADI (Coordinator of the international conventions team in the support services branch of the Office of the United Nations High Commissioner for Human Rights and representative of the Secretary-General) said in response that, if the Committee decided to establish a working group which had to meet outside the Committee's sessions, there would be financial implications. As for the practices of the other bodies mentioned, only the Committee on the Rights of the Child and the Human Rights Committee had intersessional working groups.

74. Mr. de GOUTTES said that he supported the establishment of a working group on condition that the group would be supported by the secretariat and would not have to meet outside the Committee's sessions, since some experts would have difficulties in making themselves available when required and the meetings would have financial implications.

75. The CHAIRMAN suggested that the Committee agree on the establishment of a working group comprising three experts which would meet during the Committee's sessions and would be assisted by the secretariat, for the purpose of examining communications and making suggestions to the Committee regarding their admissibility.

76. It was so decided.

The meeting rose at 1 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-sixth session

SUMMARY RECORD OF THE 1377th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 8 March 2000, at 3 p.m.

Chairman: Mr. SHERIFIS

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Fourteenth periodic report of Denmark

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GE.00-41003 (E)

The meeting was called to order at 3.05 p.m.

SOLEMN DECLARATION BY THE NEWLY ELECTED MEMBERS OF THE COMMITTEE UNDER RULE 14 OF THE RULES OF PROCEDURE (agenda item 1) (continued)

1. In accordance with rule 14 of the Rules of Procedure, Mr. VALENCIA RODRIGUEZ, a re-elected member of the Committee, made the following solemn declaration:

> "I solemnly declare that I will perform my duties and exercise my powers as a member of the Committee on the Elimination of Racial Discrimination honourably, faithfully, impartially and conscientiously."

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Fourteenth periodic report of Denmark (CERD/C/362/Add.1; HRI/CORE/1/Add.58)

2. At the invitation of the Chairman, Mr. Lehmann, Ms. Rechnagel, Ms. Grambye, Ms. Retoft, Ms. Herbst Bendiksen, Ms. Urth, Mr. Hem Lindblom, Mr. Skibsted Mogensen, Ms. Bjerg Clausen, Ms. Andersen, Ms. Lauridsen, Ms. Toftegaard Nielsen and Mr. Møller Lyberth took their places at the Committee table.

3. Mr. LEHMANN (Denmark) said that the size of the Danish delegation reflected the continuing importance his Government attached to a substantive, frank dialogue with the Committee. The fourteenth report was an earnest attempt to address the issues raised by the Committee during the previous discussion in 1997, and would be supplemented and updated by the delegation in its oral introduction. A lively debate was continuing in Denmark on how best to integrate immigrants and refugees into Danish society. Denmark had only recently witnessed a level of immigration which presented a challenge to its society's traditional customs and norms. Various experiments and ideas were being tried out to facilitate integration, and a free, public debate was the best foundation on which to build for the benefit of all members of society.

4. Ms. URTH (Denmark) said that the Danish Government had made a serious effort to ensure equality and protection against discrimination, and recognized that the adoption of laws was necessary, but did not suffice in itself. Since the report had been submitted, the Government had drawn up a plan to evaluate the effects of the Integration of Aliens Act, which had been in force for over a year. The Act had been well received, but certain provisions had been found lacking. Specifically, it had provided for participation in an integration programme which granted allowances that would initially be less than those offered to non-participants, and would subsequently be higher, when the beneficiary found employment. As it had been found that refugees and immigrants were slow to gain a foothold in the labour market and were thus penalized by that system, the Act was amended in January 2000 to raise the initial allowance to the same level as the cash assistance paid to Danish citizens and non-participants.

5. While the adoption of the Integration Act was an important step, much more remained to be done to ensure equality and integrate foreigners. Unemployment was particularly high among ethnic minorities. In February 2000 the Government had issued a report on existing integration

programmes and had launched a plan of action which contained more than 75 specific initiatives and measures centred around three main themes: employment, education and housing, including steps to ensure a more balanced composition of residents in urban areas.

6. As part of a high-visibility campaign launched in Denmark in 1997 during the European Year against Racism and still ongoing, a relay baton was passed from one set of organizations to another every year, with each year having a different specific theme. In February 2000, 12 new organizations had taken up the baton, including the Office of the National Commissioner of Police, which would encourage recruitment of minorities in the police force, the Danish radio and broadcasting network, which would increase awareness of the problem of racism, and the Danish Rectors' Conference, which would endeavour to improve university enrolment prospects for persons who had not received primary education in Denmark.

7. Ms. ANDERSEN (Denmark) underscored the importance of employment in the integration process. Although unemployment had been declining steadily in recent years, it remained high, particularly among ethnic minorities. The persistent gap between the unemployment rates of Danes and members of ethnic minorities, even those who had received Danish schooling and training, showed that there was clearly some discrimination on the labour market and signalled the need for further attention. Active measures, such as improved language courses, continued to be taken, and the problem was systematically discussed with the social partners and others active in the labour market. The Act on the Prohibition of Differential Treatment on the Labour Market adopted in 1996 protected individuals against discrimination in recruitment, promotion and dismissal, and had been followed up by a number of agreements underscoring the importance of equal treatment. The Ministry of Labour and the Board for Ethnic Equality had drawn up a Guide to the Discrimination Act, which was soon to be published and would include the case law and examples of action taken to improve access of minorities to employment. The Committee would receive a copy as soon as it came out. Other measures had the objectives of offering education and training programmes, language courses and vocational training, of changing attitudes on the labour market and of carrying out statistical and qualitative studies.

8. Ms. RETOFT (Denmark) said that the Ministry of Finance, as the main employer in the public sector, had undertaken a two-year programme to recruit more ethnic minorities, after consultation with public institutions, non-governmental organizations (NGOs) and trade unions. The programme, inter alia, provided funding for Danish language courses for ethnic minorities employed in the public sector, established rules for job advertisements so as to ensure that they invited applications by minority candidates, offered financial incentives to managers who recruited minorities and endeavoured to showcase the best practices for employment of minorities in the public sector. A follow-up of the programme was scheduled for later in the current year.

9. Ms. TOFTEGAARD NIELSEN (Denmark) said that in August 1999 the Ministry of Justice had appointed a commission to consider the advantages and disadvantages of incorporation into Danish law of the International Covenant on Civil and Political Rights, the Convention against Torture and the International Convention on the Elimination of All Forms of Racial Discrimination. The Government was of the opinion that incorporation would make no difference in legal terms, as under the current legal system such instruments could be invoked in

court and the Government saw to it that all new legislation was in conformity with conventions to which Denmark had acceded. On the other hand, incorporation could make the instruments better known to the public and to legal practitioners.

10. In December 1999 the Danish Parliament had adopted a law which provided for legal aid to individuals who filed complaints against Denmark with the Committee and other international bodies. For the applicant to qualify for such aid, the complaint must be well-founded and the international body in question must find reason to ask the Government for information on the case.

11. Mr. MØLLER LYBERTH (Denmark), speaking as a representative of the Government of Greenland, described measures taken for the development and expansion of self-government. In January 2000 the Government of Greenland had established a Commission on Self-Government with the purpose of defining, over the next two years, possibilities for the development of greater self-government within the Danish realm, based on the principle of correspondence between rights and responsibilities. The Commission would consider the transfer of the administration of justice to the Greenland Home Rule Government in the light of a report to be issued on that subject by the Greenland Law Reform Commission. It would also submit proposals for amendments to the Home Rule Act.

12. Denmark, and in particular Greenland, attached great importance to the work of the United Nations for the promotion of the rights of indigenous peoples. Denmark and Greenland were committed to promoting the objectives of the United Nations International Decade of the World's Indigenous People, and the initiative of establishing a Commission was a tangible contribution along the lines of the main theme of the decade, "Partnership in Action".

13. Mr. LEHMANN (Denmark) said that in its 1996 concluding observations the Committee had expressed concern about the delay in compensating members of the indigenous population relocated from Thule, the northernmost village in Greenland, in 1953. In August 1999 the Danish Supreme Court had handed down a judgement in which it had found that the State was liable to pay the plaintiffs damages for lost hunting rights as well as individual compensation for the transfer of the population. The Government had accepted the judgement, but an appeal had been lodged; the case was currently pending before the Supreme Court, and would probably be decided during 2000.

14. Mr. YUTZIS (Country Rapporteur) said that, in preparing his comments, he had consulted the report on Denmark of the European Commission against Racism and Intolerance, the report of the Danish Board for Ethnic Equality, a report by the Documentation and Advisory Centre on Racial Discrimination, a report produced by a group from the universities of Aarhus and Copenhagen, called The Torch, the concluding observations of the Committee on Economic, Social and Cultural Rights and, of course, the concluding observations of the Committee itself. The very comprehensive Danish and NGO reports were extremely valuable, and some public acknowledgement was due to the NGOs which were working so seriously towards a better understanding of the problems in their society.

15. The report described positive developments in the area of integration, such as the bridge-building projects, new measures under the Integration Act, changes to legislation

regarding the naming of children and the creation of the Integration Fund. He noted the use of a helicopter to bring messages against racial discrimination to nine groups across the country to focus attention on the responsibility for the fight against discrimination and for the advancement of ethnic equality, as well as the regional campaign "Colour in life - a society without boundaries" in Funen, which was especially important since it suggested that refugees and immigrants were a previously untapped resource that was full of potential.

16. There were, however, some issues of grave concern. The Government recognized that its integration efforts had not had the desired effect and that the Integration Act had not been successful in raising the employment rate amongst foreign nationals. Unemployment, especially where a high proportion of one group was unemployed, was a major obstacle to integration. Despite some overall improvement in employment levels there was still a marked difference between the unemployment rates in the two groups. Furthermore, any improvements had been due to the improving economic situation in Denmark and he feared that if the economy stopped growing or declined, the gap between Danish citizens and foreign workers would widen.

17. According to the report one of the two main causes of the high level of unemployment among ethnic minorities was the difficulty in satisfying the professional and linguistic requirements of the labour market and, in that context, he expressed satisfaction at efforts to improve the language skills of immigrants. The second reason was the reluctance of Danish employers to hire non-Danish employees. He wondered whether that was a result of State policies or whether it reflected a serious social and cultural problem. Noting that the report said (para. 6) that the Act on the Prohibition of Differential Treatment on the Labour Market did not prevent measures being taken to improve employment opportunities for disadvantaged groups, he pointed out that that was not the same as requiring such measures to be taken. Furthermore, employers in fact were prevented from taking special measures to improve employment opportunities for persons of, for example, a different ethnic background, because it was believed that improved employment opportunities for such groups were best achieved by legislation or other public measures (para. 8). He said that, according to the information he had, there were not sufficiently effective measures to guarantee equality of employment, at least not in the private sector. In addition, as a previous country rapporteur had pointed out, although a State party could make distinctions between citizens and non-citizens, if the State issued a foreigner a work permit, it was under an obligation to provide work and failure to do so was a violation of the Convention. He asked whether the delegation could provide more information on that issue.

18. He quoted various reported examples of discriminatory acts and attitudes and their effects. In May 1997, the Parliament had passed a law prohibiting foreigners, for reasons of security, from owning taxis and even from working as taxi drivers; fortunately, after severe public criticism of the Act the Government had been forced to backtrack. The horticultural society Dano in Rødovre had refused to sell allotments to anyone not born in Denmark but, after public criticism, had said that the prohibition was "only" against foreigners who were not Danish citizens. The Hertz Car Rental Company was found to have refused to rent cars to anyone who sounded foreign on the telephone. In 1996, a Copenhagen bus company had advertised that new drivers must speak one hundred per cent Danish, which was clearly an attempt to discourage non-Danish applicants. He noted that although the Act on the Prohibition of Differential Treatment on the Labour Market in principle banned any direct or indirect discrimination, in 1996 the Minister of Labour had said that in principle Danish employers could choose to hire

Danish citizens rather than foreign nationals. In 1997 the former Minister for the Interior had written in a newspaper article that the purpose of the Integration Act was to ensure that foreigners living and working in Denmark would be able to communicate with Danes in Danish and would respect the norms and rules of Danish society. He expressed his astonishment at such statements and wondered what the effect was on society when the State, as represented by Ministers of the Government, seemed to tolerate such attitudes.

19. Turning to the issue of refugees, he noted that many municipalities were reluctant to rent accommodation to refugees and the refugee issue was often manipulated in inflammatory political campaigns. For example, the Minister of the Interior and also the Dansk Folkeparti (Danish People's Party) had referred to the astronomical costs of receiving asylum-seekers. The leader of the Conservative Party had said in 1997 that the Danish national community could disappear and a Minister of the Interior had said that some immigrants were exploiting Denmark's liberal legislation and cheating Danes. Changes to the laws regarding asylum had complicated the situation of asylum-seekers in Denmark and the proposed new Aliens Act would make family reunification much more difficult. He asked if it was true that immigrants would not be able to obtain family reunification until they had been permanent residents for three years, immigrants would no longer be able to bring parents over the age of 60 to Denmark, family-arranged marriages would not qualify for family reunification, the maintenance requirement would be constantly re-evaluated, asylum-seekers would not be able to obtain asylum by marrying a Danish citizen, residents' permits would no longer be granted automatically after three years, the integration period for refugees would be extended from one and a half to three years, Danish classes for refugees would be combined with work or forced labour during the integration period, local authorities rather than the Danish Refugee Council would be responsible for the integration of refugees, reduced integration benefits would be paid to foreigners, and the Immigration Service would distribute quotas of refugees to the counties which would in turn distribute them to the municipalities.

20. He noted the measures described in the report for the housing and settlement of refugees and immigrants (paras. 105 to 126 and 171 to 177) and acknowledged the Government's efforts to ensure uniform geographical distribution of foreigners across the country but pointed out that local authorities were responsible for housing, their policies and attitudes were often discriminatory and they used special criteria and quotas to limit the numbers of foreigners. In addition, since the procedure to be followed by a foreigner who wished to move was complicated and the decision was left up to the receiving municipality, the effect was to discourage mobility.

21. Recalling that article 4 of the Convention prohibited racist propaganda and organizations based on racism or discrimination, he quoted a newspaper article in 1998 in which a Member of Parliament had said that aliens, whom he referred to as mostly "Mohammedan", incurred tremendous expenses for Danish society in the areas of law and order and security and were the cause of the destruction of the Danish welfare state. A recent advertisement in a newspaper had suggested that Danish homeless people were excluded from the housing market whereas Muslim immigrants easily obtained housing. Such deplorable attacks against the Islamic community were often found during political campaigns. The extreme right Progress Party, during the 1998 election, had said that foreigners should not have special treatment, bogus refugees and criminal foreigners should be expelled and family reunifications and fake marriages should be stopped because immigrants had abused the social welfare system for too long. Such attempts to

demonize foreigners were a root cause of the problems the country was facing. He observed that the fundamental characteristic of racism was the refusal to recognize the rights of others and asked whether the delegation could provide more information on the criteria used to decide when to take action against racism and discrimination because, despite efforts undertaken to date, they clearly continued to exist and such attitudes represented a ticking bomb within Danish society.

22. He was incredulous that the authorities seemed to tolerate openly neo-Nazi organizations. For example, the neo-Nazi radio station Radio Oasen not only had been granted a broadcasting licence, but at least twice had received some public funding from the Ministry of Culture. That went beyond tolerance and bordered on complicity. At one Rudolf Hess march in 1998 some participants had worn tee-shirts which on one side said "Smash the Jews" and on the other "Kill 'Em All", but the police had refused to act, saying that society had become more tolerant of such expressions of opinion and it currently took more to constitute a violation of Criminal Code provisions on racial discrimination. He wondered how tolerant of intolerance one could reasonably be.

23. The above were clear examples of what seemed to be a fundamental problem within Danish society. The written and oral reports of Denmark had given him the impression that the country was gradually moving towards recognition of the fact that it was an increasingly multicultural and multi-ethnic society although in 1998 the Minister for the Interior, Mr. Simonsen, had commented that respect for the cultural identity of the individual foreigner was a prerequisite for successful integration although such respect was not the object of the integration.

24. There were many examples of Denmark's ambiguous attitude towards the issue of immigrants. To cite one case, the Muslim parents of children who had been ashamed of showing their nudity in the locker room of a swimming pool had asked for separate changing facilities; the request had been denied on grounds of cost, the municipality concerned having maintained that everyone had had to be aware of Danish "bathing culture". But what was precisely the culture of the Danish people? Were McDonalds, Coca Cola and Nike part of it? No one complained about their presence, because they were Western institutions. In its argument about "Danish bathing culture", the municipality had spoken of a fear of contact with bacteria in clothing of persons of Muslim culture. That was a criterion of Western hygiene. Why was the concept of Western hygiene necessarily superior to that of other cultures?

25. To give another example, there had been a broad campaign in Denmark against the ritual slaughtering of animals by Jews and Muslims. But few Danes had seemed interested in how pigs were slaughtered or under what terrible conditions battery chickens were held. He referred also to the case of a 14-year-old girl who had not been allowed to train for a sports event because she had covered her hair with a headscarf. Who was a greater challenge to Danish culture, a girl who covered her head with a scarf, or one who wore a revealing mini-skirt?

26. Denmark was multicultural: the problem was an unwillingness to recognize that fact. He regretted the statement by the Minister for the Interior that he did not intend to work towards Denmark's becoming a multi-ethnic society.

27. Turning to paragraph 253 of the report, which dealt with the implementation of article 6 of the Convention, he was not certain that the dissemination of racist ideas was punished as it should be. The Committee had already raised that question in the past and had yet to receive a satisfactory reply.

28. He appealed for greater awareness in Denmark of certain dangerous phenomena before they reached boiling-point.

29 The CHAIRMAN, speaking in his capacity as member of the Committee, asked for clarification of a report he had read about an elderly illiterate Iraqi widow lodged in housing allocated in a small Danish municipality far from her son, her only connection in Denmark, who lived in another city. It would seem that the woman's family ties to persons resident in Denmark had not been taken sufficiently into account when the Danish immigration service had decided where to house her. He would have thought that there would be a humane way of accommodating such cases.

30. Mr. BANTON noted that in the memorandum presenting the Integration Bill to Parliament, the Minister for the Interior had stated that efficient integration formed the best basis for the return of aliens to their countries of origin and that successful integration was thus a prerequisite for aliens obtaining the resources necessary for a return. That suggested to him that, for the Danish Government, reception was in many cases expected to be temporary. He asked the Danish delegation to include in the next periodic report figures on the numbers and categories of persons entering Denmark, changes in the status of asylum-seekers who obtained a work permit and became immigrants, how long they stayed, how many acquired Danish nationality and the number of children they had. Without information about the process of settlement or return, the Committee could not make sense of the figures provided in paragraph 11 on differences in unemployment rates.

31. The Integration Act systematized measures to assist immigrants for the first three years, but a longer-term strategy would be needed to compare the progress of immigrants and their children with that of persons of Danish origin with similar qualifications. Statistics must be collected in a form that would allow the Danish Government to monitor the implementation and effectiveness of its programme.

32 Like Mr. Yutzis, he found it difficult to understand how a minister could say that a Danish employer was in principle allowed to give preference to Danish citizens over foreign nationals when hiring workers.

33. He asked the Danish delegation why no criminal action had been taken against the Member of Parliament Pia Kjærsgaard for making derogatory remarks about foreigners, whereas the journalist Lars Bonnevie, who had written that Ms. Kjærsgaard had been promoting racist views, had been found guilty of defamation and fined.

34. He was not in complete agreement with what Mr. Yutzis had said about a multicultural society, a term which meant different things to different people. In any case, it was not necessarily within the scope of the Committee's mandate.

35. Many of the cases drawn to the Committee's attention in which the prosecutor had declined to take action had concerned actions which seemed to have multiple motives, some of them objectionable and others excusable; the prosecutor focused on the excusable ones. That was a problem which had also been taken up with other countries, and he suggested that Denmark might consider the amendment to the Australian law, which had addressed that point by stating that if one significant motive among many was of a discriminatory nature, then it might constitute a breach of the Convention. He had the impression that prosecutors needed training on how to interpret such situations. Provision must be made for appealing against such decisions, because there must be some means of rectifying possible mistakes.

36. Referring to paragraph 244, he said that it should be possible to collect statistics on the comparative scholastic achievements of children of different origins. As he understood it, the performance of foreign children had been encouraging, partly because the Government had increased funding for schools in which such children were present in large numbers, but if funding was to come more heavily from local rather than national sources, that might threaten assistance to such schools. It was to be hoped that the next periodic report would provide further information on that important issue.

37. Mr. RECHETOV paid tribute to the Danish contribution to rescuing Jews during the Second World War, which testified to the absence of a tradition of anti-Semitism in Denmark.

38. He had a number of comments on Greenland. It struck him that the report played down Greenland's powers of self-government, whereas in reality Greenland's representatives were empowered to decide questions of trade, fishing and the like; indeed, sometimes their decisions were not to the liking of the central Government in Copenhagen. It was unfortunate that that degree of self-government had not been extended to Chechnya.

39. Paragraph 305 seemed to suggest that it was a difficult matter to translate the Convention into Greenlandic ("steps are being taken" etc.). It was to be hoped that by the time the next periodic report was submitted, if not earlier, the delegation could report that a few people had been found who could produce a Greenlandic version.

40. According to paragraph 309, the local courts of first instance were headed by lay judges chosen for their knowledge of the local community and people and of the Greenlandic language. If those local judges of the first instance had general jurisdiction, that was very worrisome, because it would mean that they were not professionals. But there appeared to be another phenomenon at play: such courts heard traditional civil cases, such as disputes between hunters or fishermen, and were not actually the backbone of Greenland's legal system. There was also another problem, because the paragraph stated that persons of the legal profession in the Greenland Administration of Justice system were mainly Danes. That suggested that the judges required interpretation; yet most of the evidence and written documentation submitted to the courts would surely be in Greenlandic. Danish judges who did not know the Greenlandic language were therefore dependent on interpretation. He asked the Danish delegation to comment on the problems that that posed.

41. The Committee continued to regret the Thule situation, but there seemed to be geopolitical and perhaps even military issues involved, which perhaps explained why the report was vague and brief on that point. For years, the Greenlandic population, and even the Danes themselves, had not even been aware that nuclear weapons had been stockpiled in Greenland.

42. Mr. de GOUTTES said that a number of statistics still gave cause for concern, in particular the continuing high level of unemployment among foreigners. But the arrangements for promoting the integration of foreigners and ethnic minorities contained elements of great interest to the Committee, notably the Act on the Integration of Aliens in Denmark, which transferred to local authorities powers in the area of integration and made provision for newly arrived foreigners to take part in an initiation programme and receive an initial indemnity. He had also noted with interest the many proposals of the Integration Committee (paras. 46 et seq), the police training programmes that included meetings between police officers and representatives of ethnic minorities and with SOS against Racism, and the examples provided in the fourteenth report of criminal prosecution instituted for racist acts (paras. 103, 140 and elsewhere). However, according to paragraph 251, about 20 cases had been closed without any charges being brought. Reports by the Documentation and Advisory Centre on Racial Discrimination and the Danish Office for Ethnic Equality had drawn attention to the insufficient number of prosecutions in such cases.

43. He expressed surprise that so little emphasis had been given in the report to the development of a common European policy to combat racism and xenophobia. It had become a priority of the European Union and was the subject of two important European Union directives.

44. Referring to the information contained in paragraphs 105 et seq. and 176 of the report, he sought clarification with regard to the procedures applied by local authorities and the immigration services to ensure equitable geographical distribution of foreigners in Denmark, in accordance with the Integration Act. Under what conditions could foreigners move from the municipality assigned them and to what extent were the wishes of the persons concerned taken into account? Furthermore, what criteria were used by the local authorities in fixing quotas for allocating housing to refugees?

45. According to NGO sources, as a result of the Integration Act the amount of social security currently allocated to refugees was likely to be reduced. He would welcome some clarification in that regard.

46. He wondered why in 1997 the license of Radio Oasen, which was run by a neo-Nazi group, had been renewed by the National Radio and Television Committee, despite the initial refusal by the Local Radio and Television Board. Was it merely a question of not wishing to leave a radio frequency free, in the absence of other applicants, as paragraph 151 of the report seemed to imply? In the affirmative, then the decision of the National Radio and Television Committee was highly questionable. The Committee had already voiced its concerns about the leniency of the Danish authorities concerning the broadcasting of neo-Nazi ideology when it had considered Denmark's thirteenth periodic report.

47. What was the position of the Danish Government towards political parties such as the Dansk Folkeparti, which according to NGO sources had conducted racist and xenophobic campaigns and had links with neo-Nazi groups?

48. Paragraphs 262 and 263 of the report would need to be revised in the light of the Committee's finding with respect to the case of Ziad Ben Ahmed Habassi v. Denmark (Communication No. 10/97) that there had indeed been a violation of the Convention.

49. Mr. BRYDE said he would welcome more information on the action plan launched in February 2000, mentioned by Ms. Urth. He had read reports by NGOs and in the press which were critical of the action plan, alleging that the generous offers made to immigrants in it were conditional on their assimilation into Danish society. Having read the Danish text of the action plan on the Internet himself, with the assistance of a Danish translator, he had found that, while there were many references to the rights of immigrants to preserve their own cultural identity, there were even more references to the need for them to adjust to Denmark's legal and social norms and to integrate into Danish society. That would seem to bear out the comments made by the Country Rapporteur earlier. Where exactly did the boundary lie between the duty of immigrants to conform to Danish society and their need to preserve their own national identity? To what extent was multiculturalism really allowed in the country, or were immigrants expected to become Danes?

50. Mr. DIACONU commended Denmark's ongoing dialogue with the Committee, as borne out not only by its regular reporting and attendance, but also by the contents of the report, which followed up comments by the Committee on earlier periodic reports and even included references to complaints submitted by individuals. Also worth noting was the enactment of new legislation, including the Integration Act (1988) and amendments to the Aliens Act.

51. Article 4 of the Convention was not fully covered by article 266 (b) of the Danish Criminal Code, which prohibited statements of a racist nature, but only by groups, not individuals. Article 4 (a) had to be interpreted as also protecting persons as provided for in articles 2 and 5 of the Convention. He was somewhat puzzled by a court ruling to the effect that no compensation need be granted when an act of racial discrimination was carried out in a calm and polite manner. The Danes were of course renowned for their calmness and politeness, but any act of discrimination must be dealt with in accordance with the provisions of the Convention, irrespective of such considerations. According to NGO sources, trends towards violence against members of minority groups continued. The Government should therefore take more effective action to counteract them by promoting respect for racial and cultural diversity. In that connection, it was reported that the perpetrators of hate-related crimes and acts of violence might be linked to neo-Nazi and anti-immigration groups in other European countries. What measures was the Danish Government taking unilaterally, or in cooperation with other European countries, on that front?

52. The quota system for allocating housing to foreigners had the advantage of avoiding segregation, but the disadvantage of separating members of the same ethnic group or even family. The system should be improved by taking into account factors such as the linguistic and cultural backgrounds of the persons concerned. They should also be afforded the possibility of

moving to another municipality if they so wished, in accordance with the right of freedom of movement. According to NGO sources, some private landlords refused to rent accommodation to refugees and immigrants. What could be done to change such attitudes?

53. He welcomed the further efforts made in the area of bilingual teaching for children belonging to minority ethnic groups.

54. Turning to judicial matters, he said it was considered in some quarters that, since only the police and public prosecutors could institute legal proceedings for acts of racial discrimination, without any alternative private complaints procedure, victims were deprived of the necessary remedies or the right to appeal. Access to effective remedies was also restricted by submitting disputes to labour arbitration under the Act on the Prohibition of Differential Treatment on the Labour Market, thereby precluding the possibility of the cases being dealt with by ordinary courts. While he was aware of the difficulties involved and the differences between judicial systems in European countries, he sought the views of the delegation as to how such situations might be improved.

55. Insufficient data had been provided on people of different racial and ethnic origin living in Denmark, irrespective of their citizenship. How many people were covered by the Integration Act of 1998? Apparently the integration programme relating to that Act would apply to some 5,000 people a year, including new refugees, immigrants and persons wishing to be reunited with their families. That did not seem to take into account the approximately 400,000 people of ethnic minority background already living in Denmark.

56. Mr. NOBEL referred to the comment by the head of the Danish delegation that it was the recent influx of immigrants and refugees into Denmark that posed challenges to its infrastructures and traditional customs and values. Such remarks, which he had often heard in other Scandinavian countries, caused him some concern, suggesting as it did that immigrants brought problems which had previously not existed in the country, whereas it might be argued that their arrival merely highlighted shortcomings already existing in the police, housing services and education system, given that they had been unable to rise to the new challenge.

57. Denmark had been bringing its immigration procedures into line with European Union policy of moving immigration controls from national borders to the outer fringes of the European Union, thereby creating the so-called "fortress Europe", a matter that gave rise to concern that it would inspire racist attitudes, since it hinged on the concept of the undesirability of "them" (non-Europeans) as opposed to "us" (Europeans). The problem of reconciling the will to control immigration and in particular to restrict illegal immigration with practices and legislation which were not racist or might inspire racist attitudes required careful reflection. One unacceptable aspect of the current European policy was the sanctions imposed on airlines and other carriers for bringing persons without a visa into the country, which obliged those companies to carry out immigration controls at the check-in counter of the country of departure. In so doing governments were effectively delegating their responsibility under the Convention relating to the Status of Refugees of deciding who were bona fide refugees to the person at the check-in counter.

58. In order to integrate successfully it was essential to gain access to the credit, labour and housing markets. According to paragraph 195 of the report, bank loans were granted in Denmark on the basis of an assessment of the individual's ability to pay back the loan with interest, which in the case of non-citizens entailed information about the person's length of stay and work permit. Given the mobility of people nowadays, he considered such criteria rather old-fashioned and irrational. What was important in granting credit was a person's place of residence, where his salary was deposited and/or whether he had assets which could be retrieved in case of need. He also rejected the arguments put forward in the paragraph with reference to money laundering. In that connection information should have been provided on action taken by the Danish Government in response to the Committee's finding regarding the Habassi v. Denmark case, the author's complaint having been based on his failure to be granted a bank loan. He hoped that such information would be forthcoming.

59. On the subject of language, employers often used a lack of proficiency in a language as a pretext for refusing to employ foreigners. However, it was important to remember that different standards of language skills were required for different types of jobs. An effort should therefore be made to encourage employers and the competent authorities to be less stringent in applying such criteria in future.

60. Mr. VALENCIA RODRIGUEZ, referring to article 1 of the Convention, sought clarification regarding the statement in paragraph 7 of the report that it was possible to derogate from the provisions of Act No. 459 on the Prohibition of Differential Treatment on the Labour Market when the job required the employee to be of a particular ethnic origin. To his recollection it was the first time that the Committee had been appraised of such a possibility. While he granted that belonging to a certain ethnic group might be a requirement, for instance, for performing artists or certain specialists, he suggested that the provisions of the Act should be derogated from as little as possible.

61. With respect to article 2 of the Convention, he applauded the Danish Government's efforts to overcome the very high rate of unemployment among foreigners. However, according to paragraph 16 of the report, some employers were reluctant to employ people who were of a different ethnic origin. What steps was the Government taking to counter such trends?

62. He would welcome more information on the activities of the Committee on Women in overcoming obstacles to access to the labour market by women of non-Danish origin. As to the granting and revocation of residence permits, special attention should be given by the competent authorities to such women who were the victims of ill-treatment.

63. The acknowledgement in the report (para. 63) that the Government's integration efforts had not proved very effective thus far called for a more thorough analysis of where the difficulties lay. That should take into account the four major aspects of integration: education, including learning the local language, job opportunities, adequate housing and health care.

64. With regard to article 3, he asked for more information on measures to overcome the reported problems of marked differences between the housing conditions of Danes and people of different ethnic origin, and discriminatory practices by municipal authorities.

65. The provisions of article 4 (a) of the Convention were covered by the Criminal Code, in particular section 266 (b), with the increased penalties provided for in Act No. 309. He welcomed the statement that the courts assessed the consideration of freedom of expression and freedom of the press as opposed to the consideration of protection against racist statements when deciding whether such an offence had been committed. He thanked the delegation for providing specific examples of convictions made under section 266 (b) of the Criminal Code, which showed that the law was being applied correctly. He hoped that information on cases still pending would be forwarded to the Committee in due course.

66. He urged the Danish Government to remain vigilant about radio stations such as Radio Oasen operated by neo-Nazi associations. There was no information in the report about the implementation of article 4 (b) of the Convention which prohibited racist organizations.

The meeting rose at 6.05 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-sixth session

SUMMARY RECORD OF THE 1378th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 9 March 2000, at 10 a.m.

Chairman: Mr. SHERIFIS

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Fourteenth periodic report of Denmark (CERD/C/362/Add.1; HRI/CORE/1/Add.58) (continued)

At the invitation of the Chairman, the members of the delegation of Denmark resumed their places at the Committee table.

1. Mr. LECHUGA HEVIA said that the State party's report indicated that article 266 (b) of the Danish Criminal Code prohibited the dissemination of racist statements and racist propaganda (para. 135), and that there had been nine convictions for violations of that article since the preparation of the previous report (para. 140). It also stated that that provision must be applied with due consideration for the freedom of expression (para. 136). The racist nature of a statement, whether published or distributed, nevertheless prevailed regardless of the importance the courts attached to freedom of expression in a decision. A violation of article 4 could therefore occur even if the court chose not to convict. He would like clarifications on that matter.

2. With regard to "Radio Oasen", which was utilized by a neo-Nazi association, in his view the State party was committing a double violation of article 4 of the Convention by supporting a station that disseminated racist statements and by not declaring it illegal or banning the organization, an obligation of States parties under article 4 (b).

3. Another violation of that article was the publication, in a weekly publication, of statements insulting Africans and Asians made by the leader of the People's Party. The Public Prosecutor had determined that those statements were of a political, not a racist nature and had not initiated proceedings; the journalist who had denounced the racist nature of those statements had, however, been convicted of slander. Similarly, the insulting statements toward foreigners that had been published by the Progressive Party had been considered too general to merit prosecution. Those examples demonstrated that the authorities and political leaders held attitudes that encouraged racist statements.

4. He would like the delegation to comment on paragraph 195 of the report, which indicated that bank loans were granted to foreigners on condition that they provided certain information. In an effort to combat money-laundering, banks applied the internationally acknowledged principle of "know your customer". That suggested that in Denmark, foreigners were suspected of money-laundering, although the paragraph stated that such information was requested for objective reasons.

5. Mr. PILLAI said he would like to know how the Government reconciled the principle of freedom of expression with racist statements and incitements to violence. The measures described in the report, particularly those undertaken by the Board for Ethnic Equality, consisted

mainly in awareness-raising activities, which in his view was insufficient. Had the Government considered prohibiting the dissemination of racist ideas through the electronic media or the press?

6. Furthermore, he had been informed by non-governmental organizations (NGOs) that public officials had refused to deal with complaints submitted by them on behalf of victims, on the ground that NGOs were not empowered to act on behalf of third parties. He requested the Government to abolish the provision prohibiting NGOs from bringing such proceedings, and thereby from participating in the settlement of disputes of the type that came before the Committee.

7. Mr. BOSSUYT asked whether the word "refugee", as it was used in the report, should be understood in the sense of the Geneva Convention, or could also be taken to mean "asylum-seeker", who had not been recognized as having refugee status. He would also like to know how many legal immigrants and how many clandestine immigrants there were in Denmark. If the second category was larger than the first, that could explain the existence of tensions. Since the reply required statistical information, the Government could communicate that information in its next report.

8. He would like to know the status of international conventions in Danish domestic law, since the delegation had stated that incorporating the Convention into the domestic law would not fundamentally change the legal situation. Did international conventions take precedence over the Constitution and domestic law?

9. Mr. SHAHI, noting with satisfaction that the Committee's conclusions to the thirteenth periodic report had been implemented, remarked that paragraph 63 of the report acknowledged that integration efforts had not been sufficiently efficient. He encouraged the Government to ensure that such efforts reaped greater results.

10. According to paragraphs 108 to 110 of the report, Danish law provided that refugees should be distributed among various municipalities, taking into account their family ties and personal circumstances. The Committee was aware of the case of an older Iraqi woman who was obliged to live in an area far from the home of her only son. He would like to know how that matter stood, and whether there was a higher-level authority in Denmark that could satisfy her request.

11. To his dismay, the sentences handed down in the nine cases of racist propaganda (report, para. 140) were so light as to be merely symbolic. In his view, sanctions should be heavy enough to act as a deterrent. Since insults against immigrants had been spread over the Internet, he would like to know if the Danish Government had taken measures to combat the dissemination of incitement to racial hatred and racist propaganda by that means. It was clear that the Internet fell within the scope of article 4 of the Convention.

12. Ms. JANUARY BARDILL inquired why the Government was reluctant, according to NGOs, to establish mechanisms to register employed persons or persons who came before the courts, a useful source of information in the fight against inequality.

13. Mr. LEHMANN (Denmark), recalling that Mr. Yutzis, the Rapporteur, had cited negative remarks about foreigners made by certain Danish politicians, said that notice should also be taken of positive remarks made by other politicians. Furthermore, care should be taken when using quotations out of context.

14. Immigrants and refugees were the subject of heated debate in Denmark. In a solidly democratic country whose cornerstone was freedom of expression, even upsetting and shocking opinions could be expressed. Other opinions, and not trials and restrictions, should be employed to combat those opinions. Under article 4 of the Convention, it seemed that racist statements were no longer opinions, but rather violations. "Radio Oasen" should be judged on the basis of the ideas it disseminated. The name of the station or the fact that it was used by a neo-Nazi group were not pertinent arguments.

15. He was grateful to Mr. Rechetov for having recalled that the Danes had hidden Jews in October 1943, at the height of the Second World War. The courage they had shown at that time was grounded in the ideas of Kierkegaard, a philosopher whose work had deeply influenced Danish culture, and who believed that the individual must ultimately assume full responsibility for his choices.

16. The Danish concept of the integration of refugees and immigrants was based on the principle that efforts must be made both by foreigners and by Danes. In order to encourage cultural coexistence that was mutually respectful, the Government had adopted innovative measures to assist refugees and immigrants in becoming active members of society on the same footing as Danish nationals.

17. Ms. ANDERSEN (Denmark) noted that the Committee was particularly concerned about the unemployment rate among immigrants and wished to have statistics that would enable it to assess the situation of ethnic minorities in the labour market. The Danish Government was actually in the process of compiling statistics disaggregated by age, sex, ethnic origin, level of education and branch of activity and taking account of geographical distribution. Denmark's next periodic report would contain the preliminary results of the initiative. To improve the situation of ethnic minorities in the labour market, the Government had also decided to set up special units in the public-sector employment service focusing on the placement of persons belonging to such minorities.

18. With regard to indirect discrimination in the form of citizenship and linguistic requirements by employers, the Prohibition of Differential Treatment in the Labour Market Act clearly stipulated that employers were not authorized to demand qualifications over and above those required for a particular position, especially where such requirements unduly penalized certain sectors of the population.

19. Replying to questions about the meaning of paragraphs 7 and 8 of the report (CERD/C/362/Add.1), she said that when an employee, by virtue of his or her ethnic origin, was particularly well qualified for a specific job, derogations from the Prohibition of Differential Treatment in the Labour Market Act were permissible. Many international instruments provided for such derogations.

20. In response to a question by Mr. Yutzis regarding the right to take special measures, she said that article 1, paragraph 4, of the Convention imposed no restrictions in that regard. The idea of affirmative action to offset handicaps suffered by persons of different ethnic origin was in practice still quite controversial. Thus, such action was permissible in Denmark only pursuant to or by reference to existing legislation. The law also permitted the launching of certain public projects on behalf of minorities.

21. Lastly, with regard to the status of women of different ethnic origin, a dialogue had been initiated with immigrant organizations to address, inter alia, problems of violence and the situation of the women concerned in the labour market.

22. Ms. URTH (Denmark) said she would first review the provisions regarding housing in the Integration Act.

23. Under the Act all municipalities shared responsibility for receiving and housing refugees. When a refugee was granted a residence permit, the immigration authorities took account of his or her personal situation, linguistic and cultural background, the possibility of establishing contacts with other refugees with a similar profile, and personal preferences when deciding in which municipality he or she should take up residence. If the refugee had family ties with a person residing in Denmark, that would also be taken into account. Humanitarian considerations thus played a major role in the decision-making process. Clearly, however, not all decisions were perfect; she assured the Committee that the Danish delegation would make inquiries about the case, mentioned by Mr. Sherifis and Mr. Shahi, of the elderly woman of Iraqi origin who had been sent to a different town from her only son and would report its findings.

24. According to a preliminary assessment of the application of the Integration Act, the municipalities managed in most cases to find housing for refugees within the prescribed three-month period, which was a considerable improvement on the previous situation.

25. In response to questions by the Rapporteur, Mr. Yutzis, about family reunification, she said that the adoption of new rules necessitated a number of amendments to the Aliens Act, which were currently before Parliament.

26. However, residence permits could be issued to parents over the age of 60 of a Danish child or a child granted asylum in Denmark. Permits were issued on a case-by-case basis to parents under the age of 60 or to child applicants for immigration.

27. In response to the specific question asked by Mr. Yutzis, she said that an asylum-seeker who married a Danish citizen would not be refused asylum on that ground.

28. For more details regarding family reunification, she referred the members of the Committee to the Aliens Act, a copy of which the delegation was happy to place at their disposal.

29. Lastly, she confirmed that the Integration Act provided for an introduction programme for newly arrived aliens, the content of which had been considerably improved. To evaluate the impact of the Act, the Ministry of the Interior had launched a plan of action in March 1999

providing, inter alia, for the establishment of databases on housing, training, education, employment, social benefits and the general living conditions of aliens. Surveys would shortly be conducted among aliens themselves to ascertain their views. The findings of the evaluation process would be reflected in the next periodic report.

30. Mr. ABOUL-NASR inquired about the meaning of the term "refugee-like persons" (para. 62).

31. Ms. URTH (Denmark) said that they were de facto refugees to whom Denmark granted asylum for humanitarian reasons in accordance with the provisions of the Convention relating to the Status of Refugees.

32. Mr. LINDBLOM (Denmark), replying to questions regarding the interpretation of article 266 (b) of the Danish Penal Code, which gave effect to article 4 of the Convention, said that it was not always easy to strike an acceptable balance between respect for freedom of expression and action against racist propaganda and incitement to racial hatred. In the view of the European Court of Human Rights, the protection of freedom of expression concerned not only proper or inoffensive statements; in a democracy, it should also be possible on occasion to make statements that were offensive or shocking. It was therefore for the criminal courts under Danish law to assess whether "racist statements" had been made as part of the cut and thrust of political debate, for example, or really constituted incitement to racial hatred.

33. At all events, article 266 (b) prohibited racist insults, racist statements made in public and threats against individuals on account of their membership of a particular ethnic or racial group. The motive for the offence was taken into account and could constitute an aggravating circumstance entailing a heavier sentence.

34. Racially motivated acts of violence were, of course, also punishable but they came under different provisions of the Code.

35. The possibility of authorizing victims of acts of racial discrimination to sue for damages in civil proceedings alongside the criminal proceedings had been considered when article 266 (b) was amended in 1995 to incorporate new provisions addressing racist propaganda. But the Ministry of Justice had eventually decided against the proposal by the Parliament's Legal Affairs Committee, citing the "principle of objectivity": it was felt that, given the serious consequences that might ensue from such proceedings for an innocent party, it was preferable to restrict to the Office of the Public Prosecutor the possibility of instituting proceedings once it was convinced, in the light of an objective assessment of the facts, that a conviction was likely. Ultimate responsibility for protecting the public against racism therefore lay with the public prosecutors, and Parliament was not for the time being contemplating the possibility of permitting civil proceedings.

36. Ms. CLAUSON (Denmark) said that, since the submission of the fourth periodic report in January 1999, the Danish courts had handed down three judgements in respect of breaches of article 266 (b) of the Penal Code, including one for defamation of religious and/or ethnic groups on the Internet. Several other cases were pending.

37. She took issue with the claim by a member of the Committee at the preceding meeting that racist statements did not constitute a breach of article 266 (b) if they were made calmly and politely. That was not correct: in the case in question, the offender had been convicted but the court had concluded that the degree of humiliation inflicted did not warrant the payment of compensation to the victim.

38. Ms. TOFTEGAARD (Denmark), replying to the question raised at the previous meeting on the current status of the Convention in Danish law, said that the Convention was a valid legal source in Denmark and was applicable before Danish courts and administrative bodies. According to the "rule of interpretation", domestic law must be interpreted, as far as possible, in a way that was compatible with Denmark's international obligations. Furthermore, it was "assumed" that any decision taken by Parliament would not undermine Denmark's obligations under international law. It was, therefore, incumbent upon administrative bodies and the courts to take due account of human rights provisions in positive international law when interpreting domestic law.

39. In response to Mr. Rechetov's question as to why first instance courts in Greenland were always presided over by lay judges, she said that that was almost a necessity because the highly dispersed population was accustomed to discharging justice itself. There was much to be said in favour of that traditional system of justice which emphasized post-punishment rehabilitation. However, all decisions handed down by the local courts could be appealed before the High Court in Nuuk, which was presided over by non-jurists and professional judges.

40. Mr. LINDBLOM (Denmark), supplementing the information given on the administration of justice in Greenland, said that judicial traditions in Greenland were highly influenced by Inuit philosophy, which was based on the harmonious interaction between body and mind and between the human being and his environment. First instance courts were the cornerstone of the judicial system of Greenland and the Greenland Law Reform Commission, which was due to complete its work in February 2001, had laid special emphasis on the development of human resources and the training of its indigenous staff. The Greenland Home Rule Authority had, furthermore, exerted pressure on the Danish Government to take immediate steps to that effect. In addition, several training programmes incorporating the needs and expectations of the indigenous population had been launched over the last few years.

41. The Government should be able to provide additional information on the delegation of authority to the Greenland Home Rule Authority with respect to the administration of justice when the next periodic report was submitted in two years' time.

42. Mr. LEHMANN (Denmark) said that a translation of the Convention into Greenlandic was being prepared and would be completed soon. He thanked the Committee members for their attention and said the detailed answers to the questions posed would certainly appear in his country's next periodic report.

43. Mr. de GOUTTES said that the issue of combating racist propaganda on the Internet was a very sensitive one which raised a large number of legal and technical questions. How did one

decide who was responsible; was it the service provider, the server administrator or the author of the site in question? He would welcome information on the matter with regard to the previously mentioned case.

44. Mr. VALENCIA RODRIGUEZ, raising the issue of remedies for victims of racial discrimination and referring to paragraphs 253 and 254 of the report (CERD/C/362/Add.1), wondered what prevented victims from lodging complaints themselves with the competent courts in order for the necessary investigation and trial to be conducted. He would also welcome more detailed information on the legal mechanisms for compensating victims.

45. Mr. YUTZIS (Country Rapporteur) welcomed the delegation's cooperation in the consideration of the report. Responding to Mr. Lehmann's remarks that both Danes and foreigners needed to make an effort, he drew attention to the unwillingness of the Danish authorities to introduce measures necessary for the integration of immigrants, refugees and asylum-seekers, and the absence, in particular, of measures to ensure equal opportunities for the less fortunate, such as affirmative action measures. He also expressed concern at the number of reports indicating or denouncing acts of violence committed against ethnic minorities, immigrants and refugees in Denmark and in the Nordic countries. The perpetrators of those crimes were said to have ties with neo-Nazi and extremist groups, seemingly confirming the resurgence of Nazi ideology in the Nordic countries.

46. Furthermore, it was not clear how nationals and non-nationals were differentiated. What criteria were used to decide the category to which a person belonged? The question was relevant to the implementation of article 5 (i) (e) of the Convention relating to the enjoyment of economic, social and cultural rights, and in particular, the right to work. What was the situation of a non-national who was issued a work permit?

47. As to remedies available to victims of racial discrimination, the State party was invited to provide supplementary information on appellate bodies, if they existed, and appropriate defence mechanisms.

48. Attention should also be drawn to a decline in social welfare, which could only be viewed negatively by the immigrant community.

49. It was important for Denmark to probe the underlying causes of the resurgence of acts of racial discrimination and not simply to solve the problems on a case-by-case basis, because when symptoms recurred, they had to be nipped in the bud. In that connection, he was not satisfied with the delegation's response to the cases of racist demonstrations mentioned in the course of the discussion.

50. The Committee must remain vigilant and not allow certain rights to be violated in the name of freedom.

51. He had the impression that Denmark did not realize the cultural riches that foreigners could bring to the country.

52. Ms. CLAUSON (Denmark), responding to Mr. de Gouttes' remarks about racist propaganda on the Internet, said that in the case mentioned earlier, the author of the site had been sentenced, under criminal law, and fined DKr 2,000. Furthermore, the police and the Office of the Director of Public Prosecutions reserved the full right to investigate and try cases, including violations falling under article 266 (b) of the Penal Code.

53. Mr. LEHMANN (Denmark) thanked the Committee for the instructive exchange of views and said that the next report would contain the answers to the outstanding questions.

54. The CHAIRMAN said he was pleased with the constructive dialogue that had taken place between the Danish delegation and the Committee and praised the efforts of the State party to implement the provisions of the Convention and its strict observance of the deadlines for submitting reports. Thus, the Committee had concluded its consideration of the fourteenth periodic report of Denmark.

55. The delegation of Denmark withdrew.

The meeting was suspended at 12.15 p.m. and resumed at 12.25 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

Situation regarding the draft amendment to the Committee's rules of procedure

56. Mr. ABOUL-NASR said he would like to know if the Committee was in favour of examining the proposed amendment of the rules of procedure whereby a Committee member would not be allowed to participate in the consideration of a periodic report when he was a national of the country concerned.

57. Mr. BANTON said he felt able to give a negative reply to Mr. Aboul-Nasr's question, knowing that the author of the proposed amendment referred to had ceased to be a Committee member two years previously.

Consideration of draft general recommendations (CERD/C/56/Misc.11 and Misc.13) (documents circulated during the meeting in English only)

58. The CHAIRMAN recalled that at a previous meeting the Committee had decided to discuss three draft general recommendations during its fifty-sixth session in the order in which they had originally been submitted. The first, put forward by Mrs. McDougall, concerned forms of gender-related racial discrimination and the other two, submitted by Mr. Banton, were entitled "The lesser forms of racial discrimination" (CERD/C/56/Misc.11) and "Remedies for victims of racial discrimination" (CERD/C/56/Misc.13).

59. In the absence of Mrs. McDougall, he invited Mr. Banton to present his two proposals to Committee members for an initial exchange of views, on the understanding that in due course the Committee would consider the three texts for adoption in chronological order as planned.

60. Mr. BANTON said the aim of the draft general recommendation contained in document CERD/C/56/Misc.11 was to make it easier for the Committee to respond to delegations of States parties which maintained, as the Dominican Republic and Haiti had done at its fifty-fifth session, that as racial discrimination did not exist in their countries there was no need for any legislation to counter it. In such a case, the Committee could simply invite the member States in question to refer to the proposed general recommendation.

61. The aim of the text contained in document CERD/C/56/Misc.13 was to provide clarifications for States parties that were over-inclined to use exclusively penal sanctions against the authors of breaches of the Convention. Although the application of penal measures by Member States was appropriate for violations covered by article 4 of the Convention, it seemed neither suitable nor effective for violations of the rights listed in article 5 of the Convention, particularly the right to work, to housing and to education. The desired objective was to encourage States that did not do so sufficiently to apply administrative, regulatory or other available measures in tackling violations of rights such as those covered by article 5 (f) of the Convention, for example when members of minority groups were refused service or entry at establishments intended for use by the public, such as bars or discotheques. The sanctions might include the withdrawal of licences, authorizations or other permits granted by the administrative authorities.

62. Mr. ABOUL-NASR said that the proposals made in document CERD/C/56/Misc.11, if expanded and adapted, might facilitate the handling of other delicate and difficult situations with which the Committee was confronted, such as when the delegations of certain member States cited national Islamic traditions in attempting to substantiate the idea that an act prohibited by the Convention did not constitute an offence in their countries.

63. The draft text contained in document CERD/C/56/Misc.13 (Remedies for victims of racial discrimination) was very interesting, but at first sight raised some particularly delicate issues. He thought it would be unfair to tackle the question of compensation for victims without including categories of people who had suffered particular harm through acts of racial discrimination and who also deserved compensation, particularly victims of slavery and indigenous populations that had been subjected to genocide.

64. Mr. SHAHI said that the distinction made in document CERD/C/56/Misc.13 between penal sanctions that could be taken by member States against the authors of acts of racial discrimination covered by article 4 of the Convention and civil sanctions taken against infringements of the rights listed in article 5 was a particularly useful one. Two possible solutions were worthy of further consideration: to call on member States either to make provision for penal sanctions against the authors of violations of article 5, or to confine punishment under penal law to those who violated article 4 and punishment under civil law to those who violated article 5.

65. He suggested that the Committee examine the situation in order to determine whether infringements of the rights protected under article 5 should be the subject of civil procedures alone, given the fact that the latter appeared to offer victims more effective means of recourse than criminal procedures.

66. Mr. VALENCIA RODRIGUEZ said he found the draft general recommendation on lesser forms of racial discrimination interesting. However, he pointed out that the final text would have to take account of the differences in penal legislation between countries that used Anglo-Saxon law and countries such as his own.

67. He noted that the proposals contained in the text on remedies for victims of racial discrimination were based mainly on article 4 of the Convention, which called for penal sanctions to be taken against persons who promoted the dissemination of racist ideas or assisted racist organizations. It would certainly be useful to draw States parties' attention to article 6 of the Convention, which provided for intervention by administrative arbitration or conciliation committees as a means of resolving problems relating to racial discrimination. Naturally, the ideal would be to achieve the best possible continuation of the possibilities offered by the articles mentioned in the draft.

68. Mr. de GOUTTES, referring to document CERD/C/56/Misc.11, said he was not sure that the expression "lesser forms" of racial discrimination was appropriate, for it implied that more or less serious levels of racial discrimination existed. It might be better to use the expressions "hidden" or "disguised" discrimination, or even to speak of indirect racial discrimination, meaning acts having discriminatory effects. On the whole, he felt that the draft general recommendation had potential, but required further refinement.

69. With regard to document CERD/C/56/Misc.13, he associated himself with the comments made by Mr. Shahi. He emphasized the need to take account of the differences that existed between the legal systems of States parties. It was perhaps unfair to criticize some of them for using penal sanctions more than civil or administrative sanctions, given the fact that article 4 (a) of the Convention required States to take penal action against persons who had committed certain acts of racial discrimination, while on the other hand the legal system in certain States allowed victims to seek compensation in the criminal courts through civil action based on association with the public prosecutor. Moreover, the law in the States concerned allowed victims to make a submission to labour tribunals, administrative courts or courts of social law. In short, account must be taken of the specific procedures in different countries.

70. Mr. DIACONU said that the proposals made by Mr. Banton were acceptable on the whole, provided that further work was done on certain points.

71. With regard to document CERD/C/56/Misc.13, he endorsed the comments of Mr. de Gouttes concerning the need to take into account different countries' legal systems.

72. As to document CERD/C/56/Misc.11, the criteria to be applied varied somewhat, depending on whether the authors of the racial discrimination were individuals or States. He too felt it was important not to refer to lesser forms of discrimination, in order to avoid suggesting that certain States committed serious forms of racial discrimination while others did not. Likewise, efforts must be made to avoid different criteria of seriousness for acts of racial discrimination committed either by an individual or by a State. That meant that strict criteria must be adopted. It might be better to gear the general recommendation to acts of racial discrimination committed by individuals.

73. Mr. BOSSUYT agreed that the expression “lesser forms of racial discrimination” was not appropriate. He suggested replacing it by “forms of racial discrimination practised by individuals”. Also, in order not to place undue emphasis on non-nationals at the end of paragraph 1, he proposed replacing the expression “who are not nationals of the State” by “whether they are nationals or not”.

74. He also asked for clarification as to the meaning of paragraph 2, as it was difficult to see how it would be possible to attribute significance to group characteristics in a monolithic society.

75. The CHAIRMAN said that the Committee had completed the initial exchange of views on the draft general recommendations submitted by Mr. Banton, as contained in documents CERD/C/56/Misc.11 and Misc.13.

The meeting rose at 1 p.m.